

RECORD OF THE SENATE

MONDAY, APRIL 29, 1996

OPENING OF THE SESSION

At 4:12 p.m., the Presiding Officer, Hon. Sen. Orlando S. Mercado, called the session to order.

The Presiding Officer [Senator Mercado]. The 75th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Ernesto F. Herrera.

Thereafter, we shall be led in the singing of the Philippine National Anthem and another song entitled *Lupang Sarili* by the Senate Choir.

Everybody rose for the opening prayer.

ECUMENICAL PRAYER

Senator Herrera.

God, our Father, we thank You for the life You gave us, for the land You have entrusted to us, for the blessings over which You have put us in continued stewardship.

We gather here for this session of the Senate on the eve of Labor Day. Show us, therefore, our Father, how we can, as legislators, further help create more decent jobs, fairer wages, better enforced labor standards and an improved social security system.

Help us build a society where the fruits of productivity and prosperity will benefit the working class.

For this gathering of Senators of the Republic, we ask You, Father, for the graces of love especially for the lowly, commitment to justice and, above all, humility. For while we may feel and seem to be right, the real gauge of propriety is found in the scriptures, in these words of Micah 6:8, "This is what Yahweh asks of you--only this: That you act justly, that you love tenderly, and that you walk humbly before the Lord."

Finally, as we thank Jesus for saving us from the curse of sin, strengthen us, Father, in our resolve to show our gratitude in our lives.

We pray in Jesus' name.

Amen.

NATIONAL ANTHEM

After the prayer, everybody remained standing for the singing of the National Anthem.

ROLL CALL

The Presiding Officer [Senator Mercado]. The Secretary will please call the roll.

The Secretary.

Senator Edgardo J. Angara Present
Senator Heherson T. Alvarez Present*
Senator Anna Dominique M. L. Coseteng Present*
Senator Franklin M. Driilon Present
Senator Juan Ponce Enrile Present*
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Present
Senator Ramon B. Magsaysay Jr. Present*
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present*
Senator Alberto G. Romulo Present
Senator Miriam D. Santiago Present
Senator Leticia R. Shahani Present*
Senator Vicente C. Sotto Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present*
The President Present*

The Presiding Officer [Senator Mercado]. With 16 Senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] There being none, the motion is approved.

The Secretary will please read the Order of Business.

*Arrived after the roll call

support for population activities at both national and international level;

WHEREAS, in the area of population, she has exercised leadership in the Philippine legislature through her role as a board member of the Global Committee of Parliamentarians on Population and Development; her membership in the Executive Committee of the Asian Forum of Parliamentarians on Population and Development; and as member of the Board of International Green Cross;

WHEREAS, in 1988, she spearheaded the establishment of the Philippine Legislator's Committee on Population and Development and pushed for the creation of the Committee on Demography and Family Welfare in the Senate of which she serve as its first Chairperson and is currently serving the said Committee in the same capacity this Tenth Congress; NOW, THEREFORE, be it

RESOLVED, by the Senate to recognize and congratulate Senate President Pro Tempore Leticia Ramos-Shahani for winning the United Nations Population Award for her outstanding contribution to the awareness of population issues and their solutions.

Adopted,

(Sgd.) JUAN M. FLAVIER

(Sgd.) ORLANDO S. MERCADO

(Sgd.) FREDDIE N. WEBB

Senator Romulo. May I ask that one of the sponsors of this resolution, Sen. Juan Flavier, be recognized.

The President. Senator Flavier is recognized.

SPONSORSHIP SPEECH OF SENATOR FLAVIER

Senator Flavier. Mr. President, in this day and age, when the international press has been replete with sad and depressing news, including calamities, it is such a refreshing feeling to note that one amongst us has brought honor and joy to all the Filipinos.

Therefore, may I invite all my Colleagues in the Senate in joining me and also in inviting all of our people to congratulate our Colleague, Sen. Leticia Shahani, for this honor that she has

brought to our country which is of international and global quality.

Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, we should take note that as indicated in the Resolution, the United Nations Population Award has been conferred on the following distinguished citizens and officials of the world: the late Indian Prime Minister Indira Gandhi, President Suharto of Indonesia and President Hosni Mubarak of Egypt.

I ask that we join and adopt this Resolution to recognize and congratulate our own distinguished Senate President Pro Tempore.

Senator Tatad. Mr. President.

The President. What is the pleasure of Senator Tatad?

Senator Tatad. Before we act on that motion, may I just insert a few remarks into the *Record*.

Population is a very important issue on which the distinguished Senator from Pangasinan, the Senate President Pro Tempore, and I have exactly opposite views sometimes. But this is a very important conferment from the United Nations, and I should like to join my Colleagues in extending congratulations to her.

As pointed out by the Majority Leader, this award has been conferred on the late Prime Minister of India, Indira Gandhi, President Suharto of Indonesia, and President Mubarak of Egypt. They were awarded this award after they became presidents. Our distinguished Colleague is being awarded this award before she becomes president.

Senator Romulo. Thank you, Senator Tatad.

ADOPTION OF P. S. RES. NO. 370

I, therefore, ask that we unanimously endorse and adopt this Resolution recognizing and congratulating Senate President Pro Tempore Leticia Ramos-Shahani for her winning the 1996 United Nations Population Award in recognition of her outstanding contribution to the awareness of population issues and to their solutions.

The President. Is there any objection to this motion? [*Silence*] There being none, Senate Resolution No. 370 entitled

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RECORD OF THE SENATE

TUESDAY, MARCH 12, 1996

OPENING OF THE SESSION

At 4:31 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 67th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall be led in prayer by Sen. Heherson T. Alvarez.

Everybody rose for the opening prayer.

PRAYER

Senator Alvarez.

Dear Lord,

We are going to undergo another day of inquiry, exchange and introspection into deep-seated problems of our people.

Again, give us the clarity of mind, the commitment and the wisdom to deepen the discharge of our duties. Make us a Chamber that is fully committed in unlocking the problems of the nation.

And on this day, grant that we should grow wiser, ever wiser, and ever more able to solve the problem of national development.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present
Senator Edgardo J. Angara Present
Senator Anna Dominique M. L. Coseteng Present
Senator Franklin M. Drilon..... Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavir Present
Senator Ernesto F. Herrera Present*
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present

- Senator Ernesto M. Maceda Absent **
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present*
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the reading of the Journal of the previous session is hereby dispensed with and the same is considered approved.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

March 6, 1996

The Honorable NEPTALI A. GONZALES President of the Senate Manila

Mr. President:

I have been directed to inform the Senate that the House of Representatives approved on March 5, 1996 the Conference Committee Report on the disagreeing provisions of House Bill No. 6147, entitled

*On official mission
**On account of illness

COMMITTEE(S) TO CONDUCT AN IMMEDIATE INQUIRY AND INVESTIGATION, IN AID OF LEGISLATION, INTO THE REPORTED IRREGULARITY(IES) ALLEGEDLY COMMITTED BY ONE MEMBER OF THE BOARD OF MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD IN THE ISSUANCE OF PERMIT TO FILMS WITH SALACIOUS AND OBJECTIONABLE SCENES

Introduced by Senator Revilla.

The President. Referred to the Committee on Motion Picture and Television.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

MOTION OF SENATOR WEBB
(Referral of P.S. Res. No. 340 to the Committee on Games and Amusement)

Senator Webb. Mr. President, in Proposed Senate Resolution No. 340, may I ask the Majority Leader as head of the Committee on Rules if said bill can also be referred to the Committee on Games and Amusement.

The President. Is there any objection to the motion of Senator Webb? [Silence] There being none, the motion is approved.

The Secretary. Proposed Senate Resolution No. 341, entitled

RESOLUTION DIRECTING THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE DEATH OF BUSINESSMAN REMIGIO ALCANTARA SR., AND HIS SON, REMIGIO II, ON THE OCCASION OF THE BANK ROBBERY LAST 28 FEBRUARY 1996 ALONG TAFT AVENUE, MANILA AND THE CONFLICTING REPORTS THEREON

Introduced by Senator Roco.

The President. Referred to the Committee on Justice and Human Rights.

The Secretary. Proposed Senate Resolution No. 342, entitled

RESOLUTION DIRECTING THE COMMITTEES ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS; AND WAYS AND MEANS TO INQUIRE, IN AID OF LEGISLATION, INTO THE IMPORTATION OF 420 UNITS OF MITSUBISHI PAJEROS BY RITCHIE BROTHERS, INC. AND THE EXEMPTION FROM PAYMENT OF THE CORRESPONDING AD VALOREM TAX GRANTED BY COMMISSIONER LIWAYWAY VINZONS-CHATO OF THE BUREAU OF INTERNAL REVENUE, AND WHICH HAS RESULTED IN A LOSS OF SOME P80 MILLION IN REVENUES TO THE NATIONAL GOVERNMENT

Introduced by Senator Coseteng.

The President. Referred to the Committees on Accountability of Public Officers and Investigations; and Ways and Means.

The Secretary. Proposed Senate Resolution No. 343, entitled

RESOLUTION DIRECTING THE COMMITTEES ON FOREIGN RELATIONS; AND NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE INCREASING TENSIONS ALONG THE TAIWAN STRAIT DUE TO THE RECENT MISSILE TESTS AND THE REPORTED NEW STRUCTURES BUILT ON MISCHIEF REEF AND TO RECOMMEND REMEDIAL MEASURES THEREFOR

Introduced by Senator Mercado.

The President. Referred to the Committees on Foreign Relations; and National Defense and Security.

COMMITTEE REPORT

The Secretary. Committee Report No. 61, prepared and submitted jointly by the Committees on Agriculture and Food; and Ways and Means on Senate Bill No. 1450 with Senators Shahani, Enrile, and the members of the Committees as authors thereof, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTION (QRs) ON AGRICULTURAL PRODUCTS EXCEPT RICE, WITH TARIFF,

CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1039, 1040, 1041, 1256, 1257, 1275, 1276 and 1277.

Dissenting: Senators Coseteng, Macapagal, Tatad and Angara

Sponsors: Senators Shahani, Enrile, and the members of the Committees

The President. To the Calendar for Ordinary Business.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

SPECIAL ORDERS

Senator Romulo. I move that we transfer to the Calendar for Special Orders Senate Bill No. 1450, under Committee Report No. 61.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short suspension of the session.

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 4:40 p.m.

RESUMPTION OF THE SESSION

At 4:44 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

**BILL ON SECOND READING
S. No. 1450—Agricultural Tariffication Act**

Senator Romulo. Mr. President, I move that we consider

Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Consideration of Senate Bill No. 1450 is now in order.

With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QRs) ON AGRICULTURAL PRODUCTS EXCEPT RICE WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES

The following is the full text of Senate Bill No. 1450:

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QRs) ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES

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

SECTION 1. Title. - This Act shall be known as the "Agricultural Tariffication Act."

SEC. 2. Declaration of Policy. - It is the policy of the State to make the country's agricultural sector efficient and globally competitive and to honor its commitments as a member of the World Trade Organization (WTO). Non-tariff restrictions such as quantitative import restrictions are inefficient measures of promoting agricultural production because these measures increase investment uncertainty and raise the cost of doing business. It shall therefore be the policy of the State to adopt the use of tariffs in lieu of quantitative restrictions, except in the case of rice, which is the country's main staple, as a more transparent means of providing ample protection to local producers of agricultural products while they adjust to a more open trade regime.

Consistent with the Constitutional mandate of

protecting Filipino firms against unfair trade, it is furthermore the policy of the State to employ anti-dumping and countervailing measures to protect local producers from unfair trade practices, rather than use quantitative import restrictions.

To prepare the agricultural sector for global competition, the State aims to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension, other market infrastructure and market information.

SEC. 3. Definition of Terms. - The following definitions apply to the terms used in this Act:

(a) "Agricultural products" shall have the same meaning as agricultural products under Chapters 1-24 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, as amended.

(b) "Agricultural Sector Advisory Committee" refers to the body (also created under MO 245, which supersedes MO 231) that will recommend to the Cabinet Committee appropriate mechanisms for the importation of minimum access quotas.

(c) "Applied Rate" is the rate of import duty that is actually used by Customs authorities in the collection of Customs revenues.

(d) "Based Bound Rate" refers to maximum limits on tariffs on products committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act in its initial year of implementation.

(e) "Final Round Rate" refers to the maximum limits on tariffs on products committed by the Philippines to the WTO under the Uruguay Round Final Act in its final year of implementation.

(f) "Minimum Access Volume" refers to the volume of a specific agricultural product that is allowed to be imported with a lower tariff as specified in the Tariff and Customs Code of the Philippines, as amended.

(g) "Quantitative Import Restrictions" refers to non-tariff restrictions used to prevent the entry of imported commodities, including but not limited to

import prohibitions, discretionary import licensing, and import quotas, whether qualified or absolute.

(h) "Tariff" refers to a tax levied on a commodity imported from another country. It earns revenues for the government and regarded as instruments to promote local industries by taxing their competitors. The benefit is accorded to the local producers by the maintenance of a domestic price at a level equal to the world price plus the tariff.

(i) "Tariffication" refers to the process of removing all existing quantitative restrictions such as import quotas or prohibitions, imposed on agricultural imports, and converting these restrictions to their tariff equivalents.

SEC. 4. Repeal. - The following laws and all other laws or provisions of law prescribing quantitative import restrictions or granting government agencies the power to impose such restrictions on agricultural products, except rice, shall be deemed repealed only upon the imposition of equivalent tariffs pursuant to Section 6 hereof:

(1) Republic Act No. 1296 entitled "An Act To Prohibit the Importation of Onions, Potatoes, Garlic, and Cabbages, Except for Seedling Purposes, and to Provide Penalties for the Violation Thereof";

(2) Republic Act No. 2712 entitled "An Act to Prohibit the Importation of Coffee";

(3) Presidential Decree No. 1297, as amended, entitled "Centralizing the Importation of Ruminants for Breeding, Slaughter and Beef";

(4) Paragraph 10 of Section 23 of Republic Act No. 7607, entitled "An Act Providing a Magna Carta for Small Farmers";

(5) Paragraph (a) of Section 15 of Republic Act No. 7308, entitled "Seed Industry Development Act";

(6) Section 4 of Republic Act No. 4155, as amended, entitled "An Act to Promote and Strengthen the Virginia Tobacco Industry"; and

(7) Presidential Decree No. 1485, entitled "Authorizing the Importation of Foreign Cigar Leaf Tobacco for Blending Purposes".

SEC. 5. *Amendment to the National Grains Authority.* - The quantitative import restrictions on corn and other grains, except rice, are hereby repealed. The power of the National Food Authority, formerly the National Grains Authority, shall be confined to the importation of rice. For this purpose subparagraph (xii), paragraph (a), Section 6 of Presidential Decree No. 4, otherwise known as the National Grains Authority Act, as amended, shall be amended accordingly.

SEC. 6. *Tariffication.* - In lieu of quantitative restrictions, equivalent tariffs shall be applied on commodities whose quantitative restrictions were repealed by this Act.

The President is hereby authorized to adjust in accordance with the provisions of Section 401 of the Tariffs and Customs Code, as amended, the tariffs on agricultural products whose quantitative import restrictions are repealed by this Act: *Provided*, That the schedule of the initial and final applied rates shall be equal to the base bound rate and final bound rate, respectively, as committed by the Philippine Government under the Uruguay Round: *Provided further*, That the phase down of the applied rates shall be consistent with our tariffs binding commitments.

SEC. 7. *Mechanisms for the Implementation of Minimum Access Volume (MAV).* - An equitable and transparent mechanism for allocating the Minimum Access Volume (MAVs) of agricultural products, whose quantitative restrictions are herein repealed, shall be developed and established, having the least government intervention, addressing the requirements of each geographical area, and without entailing any cost to importers/users of these products to the detriment of local consumers and other end-users.

For this purpose and in accordance with these guiding principles, the Cabinet Committee and the Agricultural Sector Advisory Council (ASAC) created by Memorandum Order No. 245 dated December 13, 1994 to oversee and manage the minimum access quotas committed by the Philippines under the General Agreement on Tariffs and Trade Uruguay Round, with the inclusion of the National Economic and Development Authority (NEDA), and in consultations with all concerned agricultural farmer/producer/processor/importer groups, shall perform the following tasks within six (6) months from the effectivity of this Act:

- (a) To identify all eligible quota users or

beneficiaries, both large scale and small scale, through a system of accreditation to be administered by the respective government agencies: *Provided*, That new users or beneficiaries must register within ninety (90) days from their organization in order to be entitled to the allocation of the minimum access volume;

(b) To identify the allocation of quota per eligible user or beneficiary and if applicable, in response to the needs of specific geographical areas, on the basis of specific criteria/relevant factors, such as, but not limited to, the following:

- 1) Capitalization;
- 2) Proven capability to import;
- 3) Adequate storage facilities;
- 4) Records of production volumes; and
- 5) Plant capacity

(c) To determine the volume and timing of the in-quota importation taking into consideration the periods of the product's scarcity of supply; and

(d) To determine the manner in which the importation of minimum access volumes shall be made such that the users/beneficiaries may be able to import their allocated volume either individually or as a group.

SEC. 8. *Agricultural Competitiveness Enhancement Fund.* - To implement the policy enunciated in this Act, there is hereby created the Agricultural Competitiveness Enhancement Fund, hereinafter referred to as the Fund. Fifty percent (50%) of the proceeds from the importation of the minimum access volumes will accrue to this Fund, the remaining fifty percent (50%) of which shall be reverted to the National Treasury.

The Fund shall be plowed back to the sectors/industries adversely affected by the repeal and shall be used solely to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension, and other marketing infrastructure and provision of market information.

The allocation of the Fund shall be based on the specific needs of the agricultural sector concerned.

The Committee on Agriculture of both the Senate

and the House of Representatives of Congress shall conduct an annual oversight on the use of the Fund. The Fund shall have a term of nine (9) years.

SEC. 9. Agricultural Competitiveness Enhancement Fund Board. - There is hereby created an Agricultural Competitiveness Enhancement Fund Board, hereinafter referred to as the Board, composed of the following: The Secretary of Agriculture as Chairperson, two (2) representatives from the farmer/peasant and fisherfolk sectors and two (2) representatives from the private sector.

The four (4) members of the Board whose term shall be for a period of three (3) years, with possible reappointment, shall be appointed by the President from among the nominees submitted by the different organizations within the sector.

The Board shall formulate a set of rules and regulations governing the administration of the fund referred to in Section 8 of this Act.

The operating expenses to be incurred by the Board shall be charged against the Fund.

SEC. 10. Repealing Clause. - All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 11. Separability Clause. - The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

SEC. 12. Effectivity. - This Act shall take effect thirty (30) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Senator Romulo. For the sponsorship speech, may I ask that the Sponsor, the Chairperson of the Committee on Agriculture and Food, Senate President Pro Tempore Leticia Ramos-Shahani, be recognized.

The President. Senate President Pro Tempore Leticia Ramos-Shahani is hereby recognized for purposes of sponsorship of Senate Bill No. 1450.

SPONSORSHIP SPEECH OF SENATOR SHAHANI

Senator Shahani. Thank you, Mr. President.

Today, I have the honor to submit for the consideration of this Chamber Senate Bill No. 1450, authored by Senator Enrile and this Representation and the members of the Committees on Agriculture and Food; and Ways and Means.

Senate Bill No. 1450 is a substitute bill of Senate Bill Nos. 1039, 1040, 1041, 1256, 1257, 1275, 1276 and 1277.

Mr. President, this sponsorship speech and the subsequent approval by Congress of this bill before us, we hope, mark a special day for the agricultural sector.

Introduction

Today, Mr. President, we begin deliberations on a bill which repeals existing laws that, for many years in the past, have protected the agricultural sector. These laws, some of which have been in existence since the 1960s, are now considered inconsistent with our commitments under the General Agreement on Tariff and Trade-Uruguay Round. Therefore, these laws need to be repealed.

It will be recalled that when the Senate concurred with the GATT-Uruguay Round Treaty in December 1994, we committed ourselves to abide by the policy of the World Trade Organization to make the conduct of international trade more transparent, fair and predictable by using tariffs to protect our local industries.

We have come to the point that we have to honor these commitments. The Philippines regrettably carries with it the singular distinction among WTO member-countries of not repealing its laws with quantitative restrictions. Our attention has been called by the international community and by the end of this month, we face the prospect of having a member-country of the WTO bring a complaint against us, that is, the United States—for breach of Article IV.

However, Mr. President, I console myself with this delay with the fact that ours is a working democracy and that we have to do with deliberate haste those tasks which will make us fulfill our international obligations and at the same time protect our own domestic interests.

Mr. President, if the Philippines fails to honor its commitment to convert agricultural Quantitative Restrictions (QRs), the country will lose its Most Favored Nation-clause status and

may be subjected to dispute settlement processes in the World Trade Organization for breach of contract.

I have stated this early at the onset of my statement, Mr. President, to appeal to my Colleagues in this Chamber for the immediate and favorable consideration of this measure.

Safety Nets

Mr. President, the Senate Committee on Food and Agriculture, together with the Committee on Ways and Means, has conducted several hearings on this matter and has come to the conclusion that while we are obliged to repeal our laws, we must do so, provided that the local agricultural sector is adequately protected from the expected influx of these imported agricultural products. In other words, while we may have our commitments in the international community, our commitments to our local farming community must be equally addressed.

Foremost in our minds are safety nets that must be assured before we "open up," so to speak, our agricultural sector to the outside world. One safety measure that was emphasized was the provision for increased tariff rates for products whose quantitative restrictions are to be lifted.

Mr. President, under the proposed measure, the President of the Republic of the Philippines shall be authorized to adjust tariffs on agricultural products. To ensure that equivalent protections where tariffs are applied, the authors of this proposed measure made sure that the President will impose the maximum rates allowable under our laws.

Mr. President, another safety net is to deliver competitiveness enhancement measures to make local agriculture more competitive. I must say that the move of Congress to appropriate P23.8 billion for agriculture is, in effect, the most significant among the safety nets. This unprecedented increase in the budget of the Department of Agriculture is expected to boost agricultural productivity and hasten agricultural development.

Mr. President, to ensure that the most affected sector—the farmer sector—is adequately supported, the bill proposes the creation of an Agricultural Competitiveness Enhancement Fund. This Fund will be used for the provision of necessary support services as is well-known in this Chamber, such as but not limited to irrigation, farm-to-market roads, post-harvest equipment, credit research and development, extension and other marketing infrastructure, market information, and their basic services so necessary to the survival of our agricultural sector, particularly the sector of the small farmers.

Allow me at this point to submit the important provisions of

this proposed measure on tariffication:

1) The measure calls for the repeal of laws prescribing quantitative restrictions or granting government agencies such as the National Food Authority (NFA) the power to impose such restrictions on agricultural products, except rice.

The repeal, Mr. President, shall take place only after the tariffs are set in place. Specifically, these laws are the following:

Republic Act No. 1296, entitled "An Act to Prohibit the Importation of Onions, Potatoes, Garlic, and Cabbages, Except for Seedling Purposes and to Provide Penalties for the Violation Thereof";

RA No. 2712, entitled "An Act to Prohibit the Importation of Coffee";

Presidential Decree No. 1297, entitled "Centralizing the Importation of Ruminants for Breeding, Slaughter and Beef";

Paragraph 10 of Section 23 of RA No. 7607, entitled "The Magna Carta of Small Farmers";

Paragraph (a), Section 15 of RA No. 7308, entitled "Seed Industry Development Act";

Section 4 of RA No. 4155, entitled "An Act to Promote and Strengthen the Virginia Tobacco Industry";

Presidential Decree No. 1485, entitled "Authorizing the Importation of Foreign Cigar Leaf Tobacco for Blending Purposes."

2) The bill likewise calls for the amendment of the National Grains Authority Act, now the National Food Authority (NFA), by confining its sole right to import, only to rice.

3) In lieu of quantitative restrictions, equivalent tariffs shall be applied. The bill authorizes the President of the Republic to peg the tariffs provided that the schedule of the initial (1996) and final (2004) applied rates shall be equal to the base-bound rate and final-bound rate. The phasedown period shall be consistent with our tariff binding commitments.

4) Mechanisms for the importation of the minimum access volumes or MAV shall be developed by the Cabinet Committee and the Agricultural Sector Advisory Council (ASAC) in consultation with all the concerned agricultural farmer/producer/processor/importer groups within a six-month period. The Cabinet Committee and the Agricultural Sector Advisory Council shall identify all eligible quota users or beneficiaries through

a system of accreditation, identify the allocation of quota per eligible user, determine the volume and time of the in-quota importation, and the manner of importation.

5) Creation of an Agricultural Competitiveness Enhancement Fund which shall comprise 50 percent of the proceeds from the importation of the minimum access volumes. The Fund shall be plowed back to the sector most adversely affected by the repeal and shall be used solely to improve farm productivity.

6) To administer the fund, an Agricultural Competitiveness Enhancement Fund Board shall be created to be chaired by the Secretary of the Department of Agriculture, with two members each from the farmer/fisherfolk sector and the private business sector to guarantee the proper representation.

Mr. President, having listened during our hearings to our farming sector, I feel confident that we have adequately covered their concerns through provisions in this bill. Rest assured that while the removal of the protectionist measures is being sought for, this bill is largely in support of domestic agriculture.

May I conclude on behalf of the Committee on Agriculture and Food, and of the Committee on Ways and Means, by appealing to my Colleagues to support this measure in the soonest possible time. Time indeed is running short. By the end of March, the World Trade Organization is expected to meet and deliberate on the case of the Philippines. We must therefore, take the step in order that we shall honor our commitments on time, as a responsible member of the World Trade Organization, and also as a sovereign country bent on protecting the rights of its farmers and all of the members of the agricultural sector.

Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1450

Senator Romulo. Mr. President, in the meantime, I move that we suspend consideration of Senate Bill No. 1450.

The President. Is there any objection to this motion? [Silence] There being none, consideration of Senate Bill No. 1450 is hereby suspended.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short suspension of the session.

The President. The session is suspended, if there is no objection. [There was none.]

It was 4:58 p.m.

RESUMPTION OF THE SESSION

At 5:11 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

BILL ON SECOND READING S. No. 1188—Irrigation Crisis Act of 1995 (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1188, as reported out under Committee Report No. 7.

The President. Resumption of consideration of Senate Bill No. 1188 is now in order.

Senator Romulo. Mr. President, I ask that the Sponsor of the bill, Senator Alvarez, be recognized.

The President. Senator Alvarez is recognized.

Senator Romulo. I also ask that the distinguished Senator from Quezon City and Iloilo, Senator Santiago, be recognized to interpellate.

The President. Senator Santiago is recognized for purposes of interpellation.

Senator Santiago. Mr. President, will the Gentleman yield for interpellation, please?

Senator Alvarez. With pleasure from the distinguished Senator from Iloilo.

Senator Santiago. Thank you, Mr. President. In order to lay the basis for my question, please allow me to make an extensive prefatory statement.

Under the Irrigation Crisis Act before us this evening, it is the President himself who enters into negotiated contracts. Whereas, under existing law, the power of the President is limited to approving negotiated contracts entered into by the department secretary concerned when the contracts involve amount exceeding the ceilings provided by certain laws.

RECORD OF THE SENATE

MONDAY, MARCH 18, 1996

OPENING OF THE SESSION

At 4:13 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 69th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Anna Dominique M. L. Coseteng. After which, we shall be led in the singing of the Philippine National Anthem and another song entitled *Calesa* by the Senate Choir.

Everybody rose for the opening prayer.

PRAYER

Senator Coseteng.

Maawaing Ama, patawarin po Ninyo kami sa aming mga sala at tulungan Ninyo kaming maging malinis sa aming mga kaisipan at gawain upang tunay na makapaglingkod sa aming mga kababayan. Nawa ay tulungan po Ninyo kami sa gitna ng iba't ibang uri ng kontrobersiyang nagaganap sa aming lipunan at pamahalaan.

Kayo po ang inaasahan naming gagabay sa amin upang maging maliwanag ang aming mga pag-iisip. Ang lahat po ng kapasiyahan ay aming inihahain sa Inyo upang kami ay maging matagumpay at lubusang makapaglingkod sa Inyo at sa aming mga kababayan.

Siya nawa.

NATIONAL ANTHEM

Everybody remained standing for the singing of the National Anthem.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension of the session.

The President. The session is suspended, if there is no

objection. [There was none.]

It was 4:18 p.m.

RESUMPTION OF THE SESSION

At 4:19 p.m., the session was resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M. L. Coseteng	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present*
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present*
Senator Ernesto M. Maceda	Absent**
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio R. Osmeña III	Present
Senator Ramon B. Revilla	Present*
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam D. Santiago	Present
Senator Leticia R. Shahani	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
Senator Freddie N. Webb	Present
The President	Present

The President. With 19 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

*Arrived after the roll call

**On account of illness

AN ACT AMENDING REPUBLIC ACT NUMBERED FIVE THOUSAND NINE HUNDRED EIGHTY, OTHERWISE KNOWN AS THE "FINANCING COMPANY ACT," FOR THE PURPOSE OF LIBERALIZING THE FOREIGN INVESTMENT CLIMATE IN THE PHILIPPINES,

to meet the urgent need of putting in place the complementary structures and conditions to make the country a viable alternative to Hong Kong as financial and investment center in the region.

Best regards.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The President. Referred to the Committee on Rules.

The Secretary.

March 13, 1996

Hon. Neptali A. Gonzales
Senate President
Senate of the Philippines
Room 407, Executive House
P. Burgos St., Manila

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VII of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QR's) ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES,

to meet a public emergency consisting of the need to make the country's agricultural sector efficient and globally competitive, and to honor its commitments as a member of the World Trade Organization (WTO).

Best regards.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Constitution Hills, Quezon City

The President. Referred to the Committee on Rules.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

March 6, 1996

Mr. President:

I have been directed to inform the Senate that the House of Representatives on March 5, 1996, adopted House Concurrent Resolution No. 017, entitled

CONCURRENT RESOLUTION AMENDING CONCURRENT RESOLUTION NO. 3, PROVIDING FOR THE LEGISLATIVE CALENDAR FOR THE FIRST REGULAR SESSION OF THE TENTH CONGRESS OF THE PHILIPPINES,

to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) CAMILO L. SABIO
Secretary General

The Honorable
NEPTALI A. GONZALES
President of the Senate
M a n i l a

The President. To the Archives.

The Secretary.

March 13, 1996

The Honorable
NEPTALI A. GONZALES
President of the Senate
Manila

Mr. President:

I have been directed to inform the Senate that the

AN ACT CONVERTING THE PEREZ QUEZON ACADEMY IN THE MUNICIPALITY OF PEREZ, QUEZON PROVINCE INTO A NATIONAL HIGH SCHOOL TO BE KNOWN AS THE PEREZ NATIONAL HIGH SCHOOL, AND APPROPRIATING FUNDS THEREFOR,

which lapsed into law on May 18, 1995 in accordance with Article VI, Section 27 (1) of the Constitution.

The President. To the Archives.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. As we had announced last Thursday, we shall resume consideration of the following bills: Senate Bill No. 1461, the bill shifting from Home Consumption Value to Transaction Value; Senate Bill No. 1450, the Agricultural Tariffication Act; Senate Bill No. 1188, the Irrigation Crisis Act of 1995; and if there is time, the other bills in the Calendar for Special Orders.

SUSPENSION OF THE SESSION

So that our Colleagues can prepare for the interpellation, may I ask for a short suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 4:29 p.m.

RESUMPTION OF THE SESSION

At 4:31 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING S. No. 1450 - Agricultural Tariffication Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. Mr. President, the sponsorship speech

was delivered last week, March 12. We are now in the period of interpellations. The interpellators will be Senator Tatad and Senator Angara, the Minority Leader.

I ask that the distinguished Sponsor and Chairman of the Committee on Agriculture and Food, Senator Shahani, be recognized with Senator Tatad to interpellate.

The President. Senators Shahani and Tatad are recognized.

Senator Tatad. Mr. President, will the distinguished President Pro Tempore, the Sponsor of Senate Bill No. 1450, yield for a few questions?

Senator Shahani. I shall be happy, Mr. President, to entertain questions from our Colleague from the Bicol Region and a staunch member of the Conscience Bloc.

Senator Tatad. Thank you very much, Mr. President.

Senate Bill No. 1450 seeks to repeal a number of laws that have so far protected Philippine agriculture from external competition by means of quantitative restrictions on the importation of sensitive agricultural products.

The term "quantitative restrictions" includes import licensing, quotas and bonds which are used by the government to deny or restrict imports from other countries. The government had been proud to extend whatever little protection it could extend to farmers until we decided in 1994 to join the World Trade Organization.

When that happened, we committed to lift those quantitative restrictions and replaced them with protective tariffs on all sensitive agricultural products with the exception of rice. With regard to rice, the ban on importation stands except for a token quantity of 1 percent of our 1986 to 1988 consumption or 59,000 metric tons which we are required to import in 1995. This token amount goes up to 4 percent or 339,000 metric tons in the year 2004. Of course, last year, we imported so much more. We imported something like 585,000 metric tons.

The bill before us, Mr. President, seeks to lift the quantitative restrictions on coffee, onions, potatoes, garlic, cabbages, corn and other grains, tobacco and ruminants for breeding, slaughter and beef and have them slug it out head-to-head with the imported competitors in the open market.

In her sponsorship speech, our distinguished Colleague, the Sponsor of the measure, sought to impress upon us that of all the World Trade Organization members, the Philippines alone has not repealed its laws imposing quantitative restrictions on the

importation of sensitive agricultural products; that the international community has called our attention to this alleged failure; that by the end of this month, March 1996, we face the prospect of having a complaint brought against us by the United States for alleged breach of Article 4.

The speech merely mentions Article 4 without specifying the document. And that if we fail to replace the quantitative restrictions with tariff by the end of this month, we would lose our "most favored nation" status aside from having to face proceedings for breach of contract.

I hope I summarized the speech of our distinguished Colleague accurately.

All this sounds like the entire economy hangs on the balance, Mr. President. I should like to begin by seeking a little more clarification on the key statements contained in our Colleague's sponsorship speech.

First of all, may we know a few basic facts about the World Trade Organization? What is its present membership and how is the organization structured in relation to the settlement of disputes?

Senator Shahani. Mr. President, as our Colleague is well aware, by acceding to the General Agreement on Tariffs and Trade, we became a member of the World Trade Organization which now seeks to rationalize world trading by the removal of quantitative restrictions, by substituting tariffs. The World Trade Organization has its seat in Geneva. There is now an executive director. There are now about 120 countries which are members of the World Trade Organization, which is a sizable majority of all the countries in the world.

Senator Tatad. Is the dispute settlement mechanism now in place?

Senator Shahani. Yes, Mr. President. The deadline set by the World Trade Organization on the lifting of the quantitative restrictions is an absolute one. And I am glad our Colleague from the Bicol region has brought up what I said in my sponsorship speech. I believe that noncompliance with this date of the lifting of quantitative restrictions will place us in a vulnerable position; that is, other countries now will have a reason to place complaints against us. And there is a mechanism in place in the WTO by which member-states of the WTO can now raise objections against a fellow member.

Senator Tatad. I only asked the questions because I read in some reports that there is some haggling between the United States and the European Union on the organization of the

appellate body. I was wondering whether this has any effect on the actual organization of the Dispute Settlement Body, which is the organ under the Ministerial Council in charge of dispute settlement.

Senator Shahani. Mr. President, there may be haggling in any international organization. I think that is quite normal. But for a country like the Philippines, I believe that it would be best that we respect the rules of the organization from which we would like to derive some benefits.

Senator Tatad. I would like to know, Mr. President, if the distinguished Sponsor is able to confirm or reconfirm her previous statement that of all the WTO members, only the Philippines has not tariffed its quantitative restrictions on sensitive agricultural products.

Senator Shahani. That is correct, Mr. President. But as I have explained to our ambassador in Geneva, Ambassador Bautista, who is somewhat nervous and worried these days because that really leaves her a very few days, I think the delay is not so much because we are not in favor of tariffication or the lifting of quantitative restrictions, but that the democratic process in our country is such that the legislative bodies would really like to debate this issue as fully as possible, taking into account the fact that the House of Representatives would like to see that it exercises its prerogatives in this regard, unless there is another legislation proposing something else, like the President setting the tariff rates.

The delay is not so much as lack of political will but rather the need for Congress to dialogue on the complex and complicated issue of tariffication.

Senator Tatad. In fact, Mr. President, I wanted to find out how accurate the reports are concerning countries like the Dominican Republic and Guatemala which were last reported to have been in a similar situation as the Philippines.

May we know if they have, in fact, tariffed their quantitative restrictions, and when?

Senator Shahani. Yes, they have tariffed their quantitative restrictions, but I do not know the exact date. As of the last part of 1995, there were four member-countries which still had not ratified. As of the first week of March, our reports show that only the Philippines remains in the list of countries which have not lifted their quantitative restrictions.

Senator Tatad. I will accept this information as absolutely correct, Mr. President. So, the Philippines remains the only member-country that has not tariffed its nontariff restrictions.

Our distinguished Sponsor has told us that the international community has called our attention to our failure to tariff. What does it mean by the words "international community," and how did that community call our attention to our supposed default?

Senator Shahani. Mr. President, we have our ambassador in Geneva who sits in the World Trade Organization as our representative. We also have Justice Feliciano, who is there, and the communication is constant. They have notified our government.

The Committee on Agriculture and Food is meeting from March 26 to 28. In fact, our delegation is waiting for congressional action because it would like to report to the Committee that the Philippines is complying with the lifting of the quantitative restrictions.

Senator Tatad. So, this is the sense from Geneva, Mr. President.

Senator Shahani. I also wish to say, Mr. President, that the President and the leadership of the Senate have been attending the weekly LEDAC meetings. I think practically every week, the issue of tariffication, the deadline which has to be met, has been expressed. The sense of that LEDAC meeting is that this is an important obligation and that we should, by all means, comply. I do not think this should be seen as pressure from the international community. But naturally, if we want an international organization to work, there has to be the respect for the rules of the house, and one of the most important issues here is the lifting of quantitative restrictions.

Senator Tatad. We appreciate the statement, Mr. President. I just wanted to be quite precise in my understanding of the statement that the international community has called our attention to our failure to tariff.

Next, I would like to know, Mr. President, the factual basis of the statement that by the end of this month, March, the United States could bring formal complaint against us for non-tariffication before the Dispute Settlement Body of the WTO.

Is this a speculation, or is there a formal document or communication that conveys to us this message—that should we fail to tariff by the end of March, then the United States would bring a complaint against us before the DSB?

Senator Shahani. Mr. President, that is true. My understanding is that the US ambassador to the Philippines, Mr. John Negroponte, has sought an audience with the Secretary of Agriculture and has given this statement before him.

Senator Tatad. The Sponsor mentioned Article 4 as the

basis of bringing action against the Philippine government. This is Article 4 of what document? May we have the text of this Article 4?

Senator Shahani. That is Article 4 of the Agreement on Agriculture, Mr. President. If I may read it:

Market Access concessions contained in the schedule relate to bindings and reductions of tariffs and to other market access commitments as specified therein. The members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties except as otherwise provided for in Article 5 and Annex 5.

Senator Tatad. Precisely, this is paragraph 2 of Article 4 of the Agreement on Agriculture.

Senator Shahani. That is correct, Mr. President.

Senator Tatad. Assuming that we are, in fact, in default in our commitment to tariff, are we expected to rush into tariffication even though that might immediately cause more harm than good? Are developing countries not, in fact, given some special considerations for delayed tariffication in the same manner that they are allowed a longer period than developed countries to reduce agriculture subsidies and tariff, Mr. President?

Senator Shahani. Mr. President, the agreement in the membership to the WTO is that for the lifting of the QRs, March 26 is the absolute deadline. The only commodity which is exempted from this, and which we were able to negotiate, is rice.

Senator Tatad. Supposing we default—on March 26, we are unable to notify Geneva that we have tariffed—is there not a process of consultation between members in the Dispute Settlement Body before one member formally institutes action against another?

Senator Shahani. Mr. President, if we do not lift the quantitative restrictions, a member state will file a complaint against us, and the United States has already said that it will do so. Under these conditions, the experts of our government predict that even if we put up a good and brave fight, we shall lose the case since it is a blatant violation of the rules which other countries have been able to comply with, including the developing ones.

Senator Tatad. Mr. President, I was interested in the process. Assuming that we default, the United States brings a complaint against us before the Dispute Settlement Body. From my understanding of the rules on dispute settlement of the World

Trade Organization, the procedure begins with consultations. If within 60 days of consultations no solution is found, the members may request for a panel to arbitrate. At that stage the Director General could conciliate or mediate.

If the Director General does not intervene, the Dispute Settlement Body establishes the panel not later than its second meeting. The terms of reference and composition of the panel are agreed upon within 20 days. Thereafter, the panel is given six months in normal circumstances and three months in urgent cases to examine the issues by meeting with the parties and with third parties. The panel then submits its report to the parties as part of an interim report before circulating the same to the Dispute Settlement Body.

The Dispute Settlement Body then adopts the panel report, unless it is appealed. If appealed, the appellate review is given a maximum of 90 days, after which the Dispute Settlement Body adopts the appellate review within 30 days. The Dispute Settlement Body then monitors the implementation of the recommendations of the panel or of the appellate body, as the case may be. Thereafter, the parties may negotiate compensation pending full implementation, or the Dispute Settlement Body authorizes retaliation pending full implementation, which is usually 60 days after the expiration of a reasonable period of time for implementation.

Mr. President, unless I have completely misread the rules, these are the procedures involved in dispute settlement. It is not nearly as alarming as what seems to be projected by our so-called "experts." In fact, I do not believe that the WTO dispute settlement mechanism has ever been put to test since the WTO was established on January 1, 1995.

Can the Sponsor tell us how many disputes have, in fact, been referred to the Dispute Settlement Body and how they have been settled as of this time? I think that information is material since it will tell us how exactly we are going to fare in case of a dispute.

Senator Shahani. Mr. President, we do not have the exact number of the disputes. But I can surmise that since the WTO is so new, there cannot be that many complaints at the moment. But I believe that a greater question is before us. It is not because we want to give in to the pressure of the world community, but I believe that the GATT has been deliberated at great length before this Body.

The Committee on Agriculture and Food and the Committee on Ways and Means, in collaboration with NEDA, have seen to it, have observed almost scrupulously, that the bound rates which we promised the small farmers will indeed be respected

in a regime of tariffication. I think that is what is important, Mr. President.

Is this delay going to mean any more improvement or refinement? Well, of course, I look forward to the points of view of our Colleagues, Mr. President. But I can assure our Colleagues that in the House of Representatives and in the committees here, there have been careful consultations to make sure that the interests of the small farmers will not be jeopardized.

Mr. President, that delay is not a guarantee for reinforcing our sovereignty and independence. The responsible authorities on tariff and on agriculture have put their heads together. If we are able to observe this fairly tight schedule—and I am really sorry that this has come at this stage when the deadline is so close, and there is not much time to debate.

I think it is not being cowardly or it is not giving in to the stronger powers if we make a major effort to comply with the requirements of the World Trade Organization.

Agricultural products, as our Colleague knows, is an important issue. It is not only the Philippines but other countries which will join those groups who are concerned, that the tariffication of commodities should be in place for the World Trade Organization to operate.

I think that is the larger issue, Mr. President. We can have, of course, all of these very legalistic schemes—this WTO settlement flow chart. We do have the International Court of Justice, for instance. But in the end, it gets to be very difficult to push things through these mechanisms as a starter. I think it would do well if we look at the issue positively and see how this bill under discussion does benefit the small farmers whom we seek to protect.

Senator Tatad. Mr. President, I thank our distinguished Sponsor for that very important statement. That is a statement of value which we should like to address later.

I should like to assure her that I had just begun my series of questions. At the appropriate time, I will focus on the real issues—tariffication.

My information, Mr. President, is that as of October 1995, 20 cases had been brought to the Dispute Settlement Body, but all these 20 cases had been quickly resolved by mutual agreement. I think those are important data that should not be lost to this Chamber.

The Sponsor has informed us—and we accept the information—that the United States is ready to file a complaint against

us if we fail to tariff by the end of this month. The question that arises is: Why the US, rather than any other country, in particular? Can the Sponsor kindly tell us what has been the US record so far, as far as complying with WTO-related obligations are concerned?

Senator Shahani. Mr. President, it is the United States ambassador who has made a demarche before our own Secretary of Agriculture.

At the meeting of November 1995, it was the United States which opened up the subject matter on violations in the lifting of the QRs. But it was, in turn, supported by the European Union, Australia, New Zealand, Canada, and Japan. All of these countries expressed concern that the Philippines had not begun to implement its tariffication commitment.

So I believe that it is well for us to start—it is not such a difficult issue. I mean, if the tariffication, if the out-bound rates were so low they would not protect our farmers. But what we are proposing are tariffs which would indeed protect our farmers. So we would be able to kill two birds with one stone. We protect our own domestic interests, and we also protect our own international interests. It is not one against the other.

This is what I want to point out, Mr. President, by saying that we should now tariffy. We are not sacrificing our small farmers at the altar of globalization. I believe we have taken what is a responsible position. In the globalization of world trade, we have seen to it that we protect our own farmers. Of course, there could be some difficulties in the period of transition. But what we are trying to do in meeting the deadline is to fulfill our domestic obligations and, at the same time, fulfill our international requirements.

In trade, Mr. President, it is good for a developing country like the Philippines to be in good terms with its trading partners. Unless we are in a position to antagonize unnecessarily some of our trading partners, prudence would dictate that we observe the rules of the World Trade Organization.

Senator Tatad. Mr. President, granting that the European Union, Australia, Canada, New Zealand, and Japan support the US position, what we have heard here is that it is the United States that is going to take us to the Dispute Settlement Body. So, that provokes the question: Why the US of all countries? If there are, as of now, 120 WTO members, why the US?

I raise the question: How is the US record with respect to compliance with WTO obligations? And what comes to mind are several vignettes.

The distinguished Sponsor might recall that prior to its

ratification of the WTO accords, the United States decided to create a review panel of five retired federal judges to scrutinize WTO decisions that might go against the United States, and that if in five years three of such decisions are judged to be unfair, Congress may vote to take the US out of the WTO.

The distinguished Sponsor might also be aware of complaints that just because the developed countries have six years within which to cut tariffs by 36 percent, the United States and the European Union—fortunately not Japan—have been slow in reducing their rates, apparently putting them off for the last portion of the implementation period.

The distinguished Sponsor might also be similarly aware that in the recent negotiations on financial services, the US had insisted that the talks on a multilateral investment accord should take place within the framework of the OECD, the Richmen's Club of 25 industrial countries, rather than within the WTO on the excuse of fast-tracking a strong agreement.

What I am trying to raise here, Mr. President, is a very simple question: Is there, in fact, no attempt on the part of some stronger WTO members to bamboozle us into submitting mechanically to their wishes while they themselves are deliberately not complying fully or on time with their own WTO obligations?

I believe that is a fair question that we must be able to answer as a body. While we recognize our obligations according to the agreement, we must not be unaware of the biases and prejudices in forming the moves of certain powerful members of this very powerful organization.

That is all I wanted to convey, Mr. President.

Senator Shahani. That is correct, Mr. President. But I do not think—although I would be concerned about the movements of the United States—I would be distracted by what goes on in the US Congress. We should think of our own national interest here in a cool and objective manner. I think that is what is needed now in this debate.

Senator Tatad. Mr. President, we are trying to be very objective. But I believe we owe it to our people and to the international community at large to bring out the facts, as they are, concerning everything that is happening now in the World Trade Organization since its inception on January 1, 1995. To be fair, not too many people know or care to know about what is happening there.

Senator Shahani. If I may add to this, Mr. President. It is not only the United States with whom we have to tangle with. There is at the moment a dispute settlement against Brazil concerning the countervailing duty it has imposed on RP

desiccated coconut. We do have the support of the European Union, Australia and other developing countries, including the United States. They have indicated their support for the case of the Philippines. So the WTO panel is to be formed this week.

If we want support for our desiccated coconut, Mr. President, I think that is the *quid pro quo*, not only in this matter but that is how life is going to be governed in our membership in the WTO.

Senator Tatad. Yes, that is a very important information, Mr. President. Unfortunately, it is a little bit outside the issue of tariffication.

The question I wanted to pose to our distinguished Colleague, as I said, is a very simple one: Can she kindly confirm to us that the reported threat of the United States is a threat that seeks fully to employ the WTO process, or does the US simply intend to use its own trade laws, Super 301, without reference to the dispute settlement process of the WTO?

I ask that question because it is important for us to look before we leap. We need to verify this detail because early last year, if my memory serves me right, after the failure of the US-Japan talks on the opening of the Japanese market to US car and car parts, the US simply threatened Japanese luxury carmakers with close to \$6 billion in penalties instead of bringing its complaint to the Dispute Settlement Body on the argument that it had every right to use its own trade laws on disputes that fell outside WTO rules.

If the US could do this to a giant like Japan, can it not do the same to a pygmy like the Philippines? So it is important to ascertain whether what is envisioned is a WTO process or simply a bilateral process using the superiority of Super 301.

Senator Shahani. Mr. President, in a letter addressed to me by our Philippine Ambassador to Geneva, Lilia Bautista, when I asked her about the prevailing situation over there—because it is a little difficult to have a feel of the political climate on the WTO—this is what our ambassador says: “I do not discount the likelihood that if in March 1996 we have not been able to fully implement tariffication, other countries will be constrained to initiate dispute settlement procedures against the Philippines.”

So it is not only the United States. I suppose the US having been at the forefront of the formation of WTO, is now wanting to make sure that the organization, in fact, would work. I foresee that there will be a fight between the stronger and the weaker countries, and that is to be expected. But it does not mean being sensitive to what other countries will do against us and being able

to protect ourselves from future difficulties. I think it is incumbent upon us to protect our flanks, to make sure that we do not unnecessarily create difficulties for ourselves, and to read properly the political signals.

From what I understand, it is not just the US, of course, it could also be the other more powerful agricultural countries. But what is important is that we are opening ourselves to dispute procedures which, at this stage of our fragile economic recovery, we can ill afford to enter into.

Senator Tatad. The original statement supplied by our distinguished Sponsor is that the US intends to bring us to the DSB. We will accept this statement as an amendment to the original and that improves our understanding of the situation.

Let us go to tariffication. Assuming that we tariffy our quantitative restrictions on agricultural products, how do we arrive at the tariff equivalent of the nontariff barrier? What tariff schedule will apply and can the Sponsor kindly specify?

Senator Shahani. Mr. President, we do have—this has been negotiated already—the tariffs which will be imposed on certain commodities. We are willing to give this to the Members of the Senate. This is the domestic price divided by the border price, minus one, times 100 percent. That is the formula which has been used to determine the existing tariffs for certain important commodities, especially those where the quantitative restrictions are going to be lifted.

Senator Tatad. I will appreciate receiving the technical computation. We asked about the tariff rate equivalent or the TRE, and according to our layman's understanding, this is found by comparing the domestic price of a good with that of the equivalent import, that is to say, world prices plus current tariffs. But we would appreciate receiving the numbers as used in order to arrive at the tariff rate equivalent.

For those products under quantitative restrictions, tariffication is obviously a first step in the liberalization process. What happens, Mr. President, after tariffication? Will the tariff stay as is or will they be immediately cut pursuant to our commitment to reduce tariffs over a period of 10 years?

Senator Shahani. Mr. President, the tariffs will progressively lessen as the years go by. We have a period of nine years, and the tariffication process ends at the year 2004.

Senator Tatad. Does the Lady Senator have any assurance that the cuts spread over the 10-year implementation period for developing countries will not be accelerated by the Executive for his own reasons?

Senator Shahani. Mr. President, in order that we would have this assurance, NEDA is providing us with the program of tariffication for agricultural products for the period 1996-2000. These rates are consistent with the proposed tariffication program provided for in House Bill No. 6451, so that it is a commitment. Of course, our own version gives the President the right to come up with these tariffs after we pass this legislation. But I believe that this is a commitment from which we cannot deviate.

Senator Tatad. We ask that question, Mr. President, because not a few well-informed observers have made their point that in the area of tariff reduction, the administration has gone farther and faster than some of the ASEAN tigers.

Last year, the President said the upper limit is 30% for finished products and the minimum is 3% for imported raw materials and capital goods. The stated goal is to cut most tariff rates to 10% or less by the year 2000, and to 5% on all goods by the year 2004.

Unless I am completely mistaken, Mr. President, our WTO commitment is that tariff tax equal to 10 percentage points shall be implemented in two equal installments—on 1 July 1997 and on 1 July 2002. Tariff cuts equal to 15 percentage points shall be made in three equal installments—on 1 July 1997, 1999, and the year 2003.

The questions that arise are as follows: Were last year's cuts fully consistent with our schedule of commitments, or are we far ahead of the WTO timetable? If so, why? Why are we so far ahead? What are we trying to prove? What are the comparative tariff reductions in ASEAN, for instance?

Senator Shahani. Mr. President, as far as the Philippine commitment in the WTO agreement on agriculture is concerned—and this has been made before the WTO; this is not just a unilateral declaration—the main commitment of the Philippines is the removal of all existing quantitative restrictions imposed on agricultural imports and to convert these restrictions to tariff equivalents.

So, in lieu of these tariff quantitative restrictions, there will be tariff equivalents. Tariffication, however, also requires historical imports which shall not be less than 3% of domestic consumption or minimum access volumes shall be allowed to be imported at low tariffs, that is, at the applied rates.

So importations beyond the minimum access volumes or MAVs, Mr. President, are to be imposed tariff rates higher than the in-quota tariff rates. The in-quota tariff rates have been agreed upon domestically in consultation with all concerned.

Now, another commitment of the Philippines pertains to the binding of the tariffs on all agricultural products on some 744 tariff lines. The base or initial rate shall be reduced as follows: the tariff cuts equal to 5 percentage points or less shall be implemented on 1 July 1999; tariff cuts equal to 10 percentage points shall be implemented in two installments—on 1 July 1997 and on 1 July 2002; and the tariff cuts equal to 15 percentage points and above shall be made in three equal installments, as follows: 1 July 1997, 1 July 1999, and 1 July 2003.

Mr. President, we are complying with all of these commitments. With the tariffication in agriculture—because we are only talking here about agricultural products—I believe the Philippine government is committed to abide by what it has originally committed.

Senator Tatad. Mr. President, I do not recall suggesting that we are not complying with our obligations. I raised the point that some people are of the view that we are moving faster and farther than we are supposed to under our commitments to the WTO.

Although the question before us right now is the tariffication of quantitative restrictions, since the tariffs are going to be bound and then later reduced according to the timetable, we are interested in looking at the behavior so far of the government with respect to tariff reduction.

Are we moving faster than the timetable suggests? Because by contrast, the industrial countries, with the exception of Japan, have apparently decided to adopt what is called "dirty tariffication" to circumvent their market-access commitments under the WTO.

What do I mean by this? Under their commitment to the WTO, they are supposed to convert all existing nontariff measures into tariff which are then combined with the existing tariffs, then bound with all other agricultural tariffs and then cut by an unweighted average of 36% in equal installments over six years from their 1986 to 1988 levels.

Of course, when we say "unweighted average of 36%," they have the flexibility to structure their cuts in such a way that one tariff may be cut more than the average and another tariff may be cut less than the average. So long as the result is a reduction of at least 15% over the six-year implementation period, this is all right. But what is happening is that since the WTO does not have an established procedure of verifying the accuracy of the new tariff levels, the industrial countries, notably the United States, Western Europe and European Union, have tended to inflate their tariff rate equivalents on their nontariff measures by setting them well above those of the agreed base period, thereby

raising the level of protection instead of bringing it down as warranted by the WTO Agreement.

So, the big cheeses have not been very faithful. They have been inflating their tariff rate equivalents, and the WTO is unable to verify this because it does not have the system in existence.

So this is dirty tariffication at work. They are delaying their process. They are backloading, in other words, while we are trying to fast-track. We are a very small country which is already feeling the pinch of complete liberalization.

This is the point I am trying to raise. Is there any way that we, by our own actions, could discipline these bigger and more powerful members of the WTO?

Senator Shahani. Mr. President, we are here discussing agricultural products and, precisely, this bill before us sets the pace of tariff reduction as Congress sees fit. I believe that we are going year by year in accordance with our capability to absorb this reduction in tariffs. I think my Colleague is referring to Executive Order No. 288 which covers nonsensitive agricultural products. These are not involved in those where the quantitative restrictions will be lifted.

I also would like to bring to the Gentleman's attention the fact that it is not just the lifting of the quantitative restrictions which we are doing here. We already have the other measures which are aimed to help our farmers cope with the challenges of globalization and the lifting of quantitative restrictions.

For instance, the Magna Carta for Small Farmers still stands. There is the price-support program for certain agricultural commodities, such as rice and corn. There is the coverage by the SSS and the Cooperative Insurance System of the Philippines. There is also direct access to credit at easy and affordable terms and conditions. There is the right to avail of and distribute farm inputs and services. There is also the right to be heard and be represented in government; small farmers' access to vital information on market prices; the right to avail oneself of programs concerning the development of technical skills and entrepreneurship; the right to undertake the management of grains and non-grain produce.

I am just outlining some of the things which remain in the Magna Carta for Small Farmers. Let us not forget also the safety nets which are now in place and which are demonstrated by the fairly sizable budget of the Department of Agriculture.

I believe the issue of tariffication should be seen within the larger context of other measures which will help our farmers

become more competitive and be able to confront the challenge of these richer countries at the moment.

Senator Tatad. Mr. President, the issue before us, indeed, is tariffication. We cannot look at tariffication; we cannot discuss it, except as part of the WTO regime.

Our distinguished Colleague will have to be a little patient with this Representation if, in the course of our interpellation, I would refer to the other areas under the WTO regime—tariff reduction, market access, and all the other things that might come in the course of the interpellation. This is in no way intended to dilute the importance of tariffication.

Given the argument that tariffication is good for productivity, for exports, for global competition, what agricultural products will the Philippines be a net exporter of after tariffication?

Just to amplify. What rising levels of productivity in exports will take place in agriculture after tariffication? Will we be producing and exporting more of our coffee, onions, potatoes, garlic, cabbages, corn, and other grains, including rice and beef? Are our production and export of these items likely to fall as imports flood the domestic market?

Senator Shahani. Mr. President, we can be sure to maintain our place in coconut products, fruits and vegetables and processed foods. In other words, we are competitive in these areas now.

In other products, say, garlic and onions, I think we are still doing quite well. If we continue to make use of the safety nets and other opportunities given to our small farmers, I believe we can become competitive in some of these areas, though I will admit that if we do not perform well in others, we could lose out on some of these products and commodities.

Precisely, by opening up and making ourselves more competitive, we can have the opportunity of widening the base of the agricultural products which we are exporting now, Mr. President.

Senator Tatad. Mr. President, if our Colleague does not mind, the tariffication bill covers some specific agricultural products—coffee, onions, potatoes, garlic, cabbages, corn and other grains, excepting rice, and ruminants for breeding, slaughter and beef.

Can we just go through this short list and find out whether at the end of the day we are going to be a net exporter of these agricultural products because of tariffication? The statement that we are going to be globally competitive with tariffication of

the quantitative restrictions on these items is, at this point, questionable. The imports will be very competitive with what we have, but I do not believe that what we are producing here will become globally competitive just because we have given up the quantitative restrictions.

So can we go through that list line by line, as someone has put it earlier, and see whether we are going to be exporting more coffee than importing; whether we are going to be exporting more onions than importing; whether we are going to be exporting more potatoes than importing; whether we are going to be exporting more garlic, cabbages, corn and the others than importing as a result of tariffication?

Senator Shahani. Mr. President, I think we can go line by line. But what is important in tariffication is that we are providing a policy regime which gives farmers as many options as possible to be competitive.

Mr. President, I am informed that we will not be competitive in garlic. In onions, yes, we are able to produce these both in quantity and quality. I think cabbage and potato are temperate country vegetables, so they are grown in our upland areas. I believe we will not be competitive in these products. Coffee, yes. Our robusta coffee is liked abroad. We are a net exporter of coffee. The prospects for being competitive in tobacco are good because we are a net exporter of tobacco. I have already mentioned coconut products, especially coconut oil, fruits and vegetables, processed food, prawns and canned tuna.

Senator Tatad. With our Colleague's indulgence, Mr. President, I would like to just limit our focus on those covered by tariffication right now. Because we are trying to find out how many of these products will survive tariffication or how many will, in fact, flourish because of tariffication. Just to alert the potential victims.

Senator Shahani. Mr. President, of course, we must make the distinction between the products we can export and what we cannot. I have mentioned the export products. But all of these products which we are now lifting under the quantitative restrictions will survive precisely because of the tariff protection. In other words, we are giving them option. Instead of imposing quotas, we are imposing tariffs. And this will give greater income to the farmers. This will also give time for us, with the safety nets to strengthen our position, to go into other fields of agriculture; to go more into agribusiness. This is what is before our farmers.

Senator Tatad. I believe, Mr. President, that last statement will probably need a little demonstration because tariffication means, in the beginning, translating the quantitative restrictions

into an equivalent protection in the form of tariff. Under the agreements we entered into and the WTO, these tariffs will progressively come down, which means that imports will become progressively cheaper. If none of these products goes into any value-added activity, they are most probably going to lose out even as domestic consumables. That is my fear.

Senator Shahani. I just would like to make the point. We are not just going into tariffication. That is why I said we have to look at the larger picture. Precisely, we will help the farmers now become more competitive in their production—in the marketing. By the time the tariffs have gone down, the hope is that our farmers will be competitive. Of course, this is a hope. Apparently, this is accepted now by the Department of Agriculture. I believe the government is alerted. This is the challenge of the membership in the WTO and in the tariffication. It is not just a one-way process. We ourselves will have to make sure that by decreasing the tariffs over the next nine years, we are, in fact, also helping our farmers to increase their production, both in quantity and quality of the products concerned.

Senator Tatad. I believe the more accurate statement, Mr. President, is that tariffication heightens the challenge to farmers. But tariffication per se does not help the farmers compete. It helps foreign products compete with our local products. I think that is the more accurate statement. And so, improving the capability of our farmers will come from other sources, not from tariffication.

In any case, the point has been well discussed, Mr. President. I would like now to look at the prospects of employment as a result of this liberalization.

What levels of employment does the distinguished Sponsor see taking place in agriculture after tariffication? Does the Sponsor, in fact, expect more people to be employed in agriculture, assuming that productivity and exports grow according to announced projections?

Senator Shahani. Mr. President, if government policy will remain sympathetic to the agricultural sector, then this is one opportunity where subsistence agriculture, which was typical of the performance of our agricultural sector, might go more into commercial crafts, might go more into agribusiness. And if we train, encourage and educate our farmers not just to be producers but to be businessmen, to participate in the business of preparing foods for commercial products, I believe that the employment rate in the agricultural sector will go up.

In other words, agriculture will not just be viewed as agriculture as against industry but agriculture can, indeed, become a fast-growing industry. In fact, the fastest growing

industry in our country is the food industry, Mr. President, just to show the potential of the increase of employment in the agricultural sector.

Senator Tatad. That is a very big "if," but I join our distinguished Colleague in the hope that all the measures needed to upgrade agriculture and improve its capability are taken by the government within the soonest possible time.

I would like to transform that earlier question on employment with respect to the agricultural sector into a general question with respect to the economy at large as a result of the WTO regime.

Speaking of the employment issue and its general relation to a fully liberalized regime, where does the administration at this point see a meaningful rise in employment and over what period of time?

I would like to explain that question. Why am I asking that question? I ask this question at this time because according to some studies, the largest growth in employment has been and remains recorded in the ranks of overseas contract workers. From 1982 to 1993, the number of legally deployed and officially documented OCWs grew from 314,000 to 740,000. This means a growth of 136% while the labor force grew by only 31%, from 18.6 million to 24.4 million.

While the labor force has been growing at an annualized rate of 2.5%, the OCWs have been growing at 8.1%. As of now, according to some studies, an estimated 40% of those entering the labor force every year are joining the ranks of OCWs.

This seems to underscore the point that market access, reduction of tariff barriers, tariffication of nontariff barriers and the like, have not altered the employment pattern in the country.

What positive changes, if any, can we expect during the full term of the implementation of liberalization?

Senator Shahani. Mr. President, the Philippines still remains an agricultural country. We have sunshine 200 days of the year. Although there is a shortage of water, we still have some rain. And if we put our mind to the desalination of water which is expensive, I think we will still have resources in that direction.

What I am saying, Mr. President, is that the resources of this country are still in the agricultural sector. Although I am not against industrialization or the services, I feel that our agricultural resources in terms of the land and sea are still vast. And if we compare the Philippines with countries like Thailand, Indo-

nesia, Taiwan or China, we have to admit that we have not been very adept in using all of these agricultural resources.

However, Mr. President, with the strengthening of the Department of Agriculture—I hope that they will really spend the P23.3 billion allotted to them—and the new emphasis on agriculture, I believe we have awakened to the challenge which globalization has for this country.

I believe, Mr. President, that agriculture can again be a main source of employment with the understanding that we make agriculture also a part of industry. In other words, it is part of agribusiness and it is part of the food industry. We are able to identify more export products. We are competitive.

I grant it that part of this is in the realm of speculation, but it is also in the realm of possibility.

Senator Tatad. Mr. President, I do not deny that we remain officially classified as an agricultural economy. But it is also true that the area of land devoted to agriculture has been progressively shrinking over the years with very disastrous results to our agriculture. Specifically, I can start with rice.

At the same time, it is an accepted fact that as agriculture modernizes, it begins to employ less and less people and sometimes even a smaller area, but because of the input of technology, the yields tend to increase.

Therefore, if we are looking to agriculture as a major employer, probably our hope is that agriculture should remain at its primitive stage; otherwise, when it begins to modernize, it will be throwing out of the fields any number of people.

Senator Shahani. But may I inject something, Mr. President. Precisely, the basis of industrialization is an agriculture which is well-developed. That is the experience of the dragons of Asia—Taiwan, Japan, China and Korea. They did not neglect their agriculture. Precisely because their agriculture was competitive or it made the farmers prosperous, that gave them the foundation and the capital to industrialize. I do not think that the two are contradictory.

If the economy is developed in a balanced way, certainly industrialization, as has been shown in many countries, has been helped by an agriculture which is productive.

Senator Tatad. Mr. President, we do not wish to suggest that any of these countries has, in fact, neglected their agriculture. The richest agriculture exporting countries are in the OECD, beginning with the United States and the countries of the European Union. I have no wish to suggest that we abandon our

agriculture. I am simply calling attention to a fact that if we are going to talk of a sector of the economy employing the greatest number of people, it is not going to be agriculture. In fact, the statistics that we have reveal this. Our agricultural employment has flattened if not, in fact, declined. And the decline is attributable to some claims coming from services rather than from the manufacturing sector.

Of course, we are now faced with the development of cross-border economies, and the manufacturing activities that used to be found in the rich OECD countries will tend more and more to relocate to countries like the Philippines, if we have the attraction for this. Right now, India, China and all the others seem to be more attractive.

Of course, as we enter the 21st century, where we have information-driven technology leading the economy, then agriculture will have to be transformed in a very different way, and services would probably occupy a very high place in economic development.

Anyway, that is neither here nor there, because that is altogether a different subject; that is a debate on the economy.

As we pointed out, the employment issue is an important issue but we can leave that behind now.

How about the balance of trade? Given the fact that our imports continue to outpace our exports, would tariffication help narrow the gap or will it not, in fact, widen it even further?

Again, this question is being asked at this time because I was just reading a very useful issue of *Time Magazine*—not all issues of that magazine are useful. It says:

In this year's economic forum in Dagos, Switzerland, there seem to have been some consensus behind the fears expressed by a former high official of the Reagan administration, now a senior officer of Goldman Socks International, that while every country believes it can grow more rapidly by increasing its net exports, there is a great danger that everyone will overestimate. There is a big risk in the market that we could go from euphoria to a huge depression.

These are words inside inverted commas coming from the chief economist of the Tokyo-based Deutsche Bank Group Asia.

Are there any more realistic projections on our export potential? Is there any projection at all that we will, in our lifetime, become a net exporting country? And we would like to find out whether there are macroprojections from the

government rather than expressions of hope.

Senator Shahani. Mr. President, our Colleague from Bicol has raised an important issue. We do not have the projections right now. I believe that they exist. We will provide them as soon as possible.

Senator Tatad. Thank you very much. I will settle for that, Mr. President.

Mr. President, we recall that one of the proud claims of the Uruguay Round was that for the first time since GATT began, the multilateral trade talks succeeded in including agreements on agriculture and textiles. These were two sectors that had consistently eluded all previous GATT Rounds. Against the fears and misgivings of our farming and textile sectors, we ratified the Agreement—meaning to say, the government ratified the Agreement; not the Senate, as erroneously used in the Memorandum Orders of the President.

We ratified the Agreement convinced by assurances coming out of GATT headquarters, among others, that liberalization would help rather than hurt these two sectors. After all, it was through our efforts in the 14-member Cairns group of agricultural exporting countries that the Uruguay Round succeeded in forging an agreement in agriculture despite the initial resistance of the Europeans under seemingly hopeless dialogue of the deaf with the United States.

We pointed out then that the agreement in agriculture would effectively reduce the farm subsidies in the United States and Europe and, therefore, raise their market prices and make ours more competitive. We also promised to institute safety nets all over the budget just in case our agriculture needed safety nets. So far, none of our expectations, none of the theories, none of the prophecies, none of the propaganda of GATT has been fulfilled.

A recent study by the World Bank, which is quoted in the book *The Economist Intelligence Unit Guide To World Trade Under the WTO* by Philip Evans and James Walsh, 1995, London, has suggested that even at the end of the six-year subsidy reduction period, farm subsidies in the industrial countries would still be above their levels when the Uruguay Round started. At the same time, some of the world's poorest countries would suffer big trade losses as rising world prices increase the cost of their food imports. Does this mean that Walden Bello, the gadfly who came here to the Senate to heckle some of us, was right all along?

In textiles, Mr. President, *The Economists* publication reports that both the United States and the European Union have taken the full opportunity to delay genuine liberalization and

that majority of current restrictions on textiles and the clothing trade will not be lifted until the end of the transition period. Our own experience attests to this.

Last year, we lost the ability to feed ourselves. We failed to produce enough rice. We imported 585,000 metric tons of rice, 10-times the limited amount of importation we had set to protect our rice farmers. This year, some 500,000 tons of imported rice are due for delivery about this time. This has happened to rice despite the official ban on imports and two rather amusing NFA resolutions—one for rice and another for corn—allowing the exportation of these home-grown commodities, provided such export does not affect the food security requirement of the nation and the welfare of domestic consumers.

As for textiles, the industry is now dead long before the phaseout of the multi-fiber agreement. The few plants—with one or two exceptions—that have been there have all grown to a halt, throwing out some 70,000 people out of their jobs.

The question is: Is the lifting of quantitative restrictions on the importation of sensitive agricultural products meant to drive the last nail on our coffin now rather than later?

Senator Shahani. Mr. President, precisely, the GATT system is a legal system. The problems which have just been brought up—in other words, the loss of income among farmers and developed countries, the need for developed countries to raise their subsidies to the detriment, maybe, of the developing countries—will be recurring problems, and these will be very difficult to solve on a more equitable basis without a world trading system. This is why GATT is there as a legal system.

The benefits to all WTO members emanate from the same legal entitlement as the most favored nation. This is why we have, no matter how unwieldy it might be, at the beginning, these mechanisms for the settlement of disputes.

Yes, there are definite world problems in trade, Mr. President. This is why we need a system like the WTO, no matter how imperfect it might be.

As far as the rice crisis is concerned, Mr. President, that was more of an internal matter. We traced the causes of that to late release of vital information, the nonperformance of NFA, when it should have performed well. I do not think that the rice crisis should be linked with the WTO.

As far as the textile industry is concerned, that has been one of the most protected industries in this country, anyway. If it is suffering because of its own parochial mentality, that is their

own lookout. Poor countries in worse positions like India, Indonesia, Thailand are all out there competing globally in textiles. Here, Filipinos are just so eager to produce for domestic market. I think we should not be bringing in WTO here, because it is a small matter, precisely because of the narrow-mindedness of those who wanted the textile industry just for themselves.

Senator Tatad. Mr. President, we have talked of coffee, we have talked of rice, we have talked of corn, we have talked of textiles. I do not want to neglect a short reference to sugar.

Sugar is not a subject of minimum access. Despite the anomalous conversion of the world market sugar into higher price, domestic sugar which has, among other things, shaken the sugar industry, there has been a domestic shortage. This shortage has provided the food processors and other importers a good reason to import large volumes.

For the record, may we know the applied tariff rate on sugar? We understand that Indonesia applies 105%; Thailand, 90%; Mexico, 150%; ours is much lower. Why?

Senator Shahani. Mr. President, the existing tariff is 50%. But since this was already liberalized in 1992, it is proposed that we put the rate of 100% as the GATT initial bound rate. So it is 100% higher than the present 50%.

Senator Tatad. What was the level of sugar importation last year, Mr. President? What is the ongoing level? Has the government taken the trouble to find out where the recent importations have not, in fact, reached a level where it can declare the official existence of an import surge? This is a technical term under the WTO agreement, which allows a government to consider certain actions in self-defense.

Under the WTO rules, if the volume of imports rises above a certain trigger level, the importing country may raise the tariff walls up to one-third of the applied rate for the duration of the marketing year. If the price of import falls below a trigger price equal to the average, 1986, 1988 reference price, the importing country may impose an additional duty equal to a prescribed ratio of the difference between the import and the trigger price. But it turns out, Mr. President, that while the WTO Agreement allows member-countries to deal with any import surge to protect their own products, the appropriate legislation in this case has not moved in Congress.

Can the administration explain why this very important piece of legislation has not been given the priority that has been given to other less important measures?

Senator Shahani. Mr. President, we did import last year

776,000 metric tons of raw sugar. Our Colleague from the Bicol region is talking about special safeguards on sugar. I understand that this import surge can be invoked when we have applied the tariffication concessions which we have not yet put in place. But, as I have said, we are proposing 100% as the GATT initial rate.

Senator Tatad. Mr. President, my understanding is that sugar is now subject to minimum access. There is a minimum allowed by the agreement. I think it is 38,000 metric tons after the technical corrections.

Any importation of this commodity in excess of the quota will have to be measured in terms of the possibility of a surge having taken place.

Senator Shahani. We have not yet subjected that to the lifting of the quantitative restrictions, Mr. President. Sugar is not in that category.

Senator Tatad. I am not sure I understand that statement, Mr. President.

Senator Shahani. Mr. President, as I understand it, Senator Tatad is stating that sugar is subjected to the minimum access volume. I am informed that this is not so since we have not yet lifted the quantitative restriction on sugar.

Senator Macapagal. Mr. President.

The President. May we know the pleasure of the Senator from Pampanga, Iloilo, and Pangasinan?

Senator Macapagal. Mr. President, my recollection is that under EO No. 8, even before the Uruguay Round, sugar was tariffied. In the Central Bank circular accompanying EO No. 8, the quantitative restriction on sugar was lifted.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask that we suspend the session for a few minutes.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:09 p.m.

RESUMPTION OF THE SESSION

At 6:12 p.m., the session was resumed.

The President. The session is resumed.

Senator Shahani. Mr. President, I would just like to make some clarifications because there seems to be some contradictions, but we have straightened this out.

As I have stated earlier, sugar was liberalized in 1992; therefore, what Senator Macapagal said is correct. However, the sugar industry claims that they are still covered by the Magna Carta for small farmers. Apparently, they still would like some protection. Under the new rates which we are proposing, the tariffication for sugar would increase to 100%. So this will help the industry to grow and become more competitive.

Senator Tatad. Thank you for that clarification, Mr. President. I hope my next statement is not going to be an unfair statement. I get the feeling that while we consider urgent that we enact measures to comply with our WTO obligations, we do not seem to have the same urgency in pushing for measures that would protect our interest in the face of liberalization. The anti-import surge measure, a version of which is pending now in the Senate but which, I believe, has not been initiated in the House, is just one example. And there are many others.

For instance, Republic Act No. 7843 or the Anti-Dumping Act amends Section 301 of the Tariff and Customs Code of the Philippines to make it GATT-consistent and to protect domestic industries from dumping. This was signed into law by President Ramos on December 21, 1994 by about the time that we concurred in the ratification of the WTO. This, however, needs implementing rules and regulations in order to be fully implemented.

As of the last time I inquired, the IRR has not been approved. May we know the latest status of those rules and regulations? Have they been finally approved or are they still awaiting the mercy of the Secretary of Finance?

Senator Shahani. Mr. President, I understand that the implementing rules and regulations for the Anti-Dumping Act is already in place, and I agree with our Colleague from Bicol that this is an important complementary measure to help the agricultural sector as well as the industrial sector.

Senator Tatad. There is another item, Mr. President. The Department of Agriculture is supposed to have formed, pursuant to Memorandum Order Nos. 231 and 245, a technical working group to act as the interim Agricultural Sector Advisory Committee or ASAC, whose duty is to recommend appropriate mechanisms on the importation of minimum access quotas during the lean months of production so as not to depress domestic prices and to protect farmers. Draft guidelines for the work of this committee are supposed to have been completed. May we know again the latest status of those guidelines?

Senator Shahani. Mr. President, according to the information available to this Representation, ASAC is going to be formed now. This formation will really be dependent on how this bill is going to be approved. But some thought has already been given; should the competitive enhancement program or the Agricultural Protection Tariffication Fund be passed by both Houses, then the Agricultural Sector Advisory Committee is going to be formed.

This Agricultural Sector Advisory Committee will assist the project development group and will evaluate the competitive enhancement project proposals and recommend measures on how to ensure that the proceeds from the importation of the minimum access volumes could be efficiently utilized and be self-sustaining. This is, of course, another measure which will help the farmers in those sectors where the QRs will be lifted, either to go into new areas or to strengthen production quality diversity of the products and commodities concerned.

Senator Tatad. There is one other item, Mr. President. Certain technical errors have been included in the Philippine schedule of concessions. I believe this is Schedule 1B. As far as minimum access volumes of certain commodities are concerned, this includes sugar, live swine, live poultry, poultry meat and pork. The technical corrections on sugar and live swine have been accepted by GATT-contracting parties and the appropriate *pro se verbale* of ratification has been issued by the WTO Secretariat as of November 1994. But we have not heard anything about the technical corrections on the other items.

For the record, what are the final corrections being sought by government on those items, and what is the latest information that we have on those corrections?

Senator Shahani. Mr. President, our Colleague from the Bicol region is correct. There are five technical errors that the Philippines has committed with respect to the minimum access volumes when we were negotiating GATT, that is, sugar, live swine, live poultry, pork, and poultry meat.

As he has said, two of these have already been corrected, that of sugar and live swine. According to latest information, the three products are still under negotiations; that is, live poultry, pork, and poultry meat. Only the US and the European Union remain to be persuaded to withdraw their objections to the Philippine notification to rectify the minimum access volumes for pork, live poultry, and poultry meat. Of these three, the critical two for us are pork and poultry meat. The government is continuing to negotiate with the US and the European Union on the matter.

Senator Tatad. Right now, we are still in the middle of negotiations.

Senator Shahani. Yes, Mr. President. It is not, maybe, so much negotiations, but really interpreting what we had originally meant.

Senator Tatad. Just one other item to support my original statement. We have the Agri-Agra Law. This guarantees lending to the agricultural sector. In spite of this, banks have been able to circumvent the requirement and divert funds set aside for rural credit to the purchase of government securities. This, obviously, is a problem that we must correct, and there are remedial measures pending on both Houses of Congress.

But I recall, Mr. President, that the last time the Governor of Bangko Sentral ng Pilipinas appeared before the Senate—this was at the workshop in Nasugbu—he made a very strong pitch for the repeal of any law that sets aside, at concessional terms, any portion of the bank's loan portfolio for a specific purpose, something like agricultural credit. He presented the classic argument of bankers invoking market forces.

Now, given the influence that the BSP Governor wields on policy—in fact, he is the sole authority on monetary policy, he looks like sometimes—can the Sponsor tell us exactly what is the administration's position at this time on this particular issue?

I recall that our distinguished Colleague in that Nasugbu meeting was in very sharp disagreement with the Governor of the BSP. She was speaking for the farmers, if my recollection serves right. But I believe that very strong position coming from BSP really has introduced some uncertainty into this very important policy issue which may, in fact, be behind the slow motion of the bills now pending before the two Houses of Congress.

Senator Shahani. Mr. President, it will be recalled that the Central Bank Governor came, and I must also express my surprise why he targeted his guns at me. It was not really the Agri-Agra Law but the Magna Carta for Small-Scale Industry, where it says that the banking community must set aside 10 percent of their loan portfolio to small-scale industries. In another section, it penalizes the bank officials if they do not comply with the provisions especially of that 10-percent requirement.

We are amending the Magna Carta for Small-Scale Industry. There is a bill which Senator Magsaysay and I have authored. But the removal of the penal sanction against the banking system remains if they do not give part of their loan portfolio to small-scale industries. There was an attempt to take it out, but we who belong to the administration party reflect the position of this administration that there must be access by small-scale industry to the banking system.

I believe the policy is to have access to credit. Of course, this is really the SMEs; it could also go into agricultural projects. But it was already pointed out that under the Agri-Agra Law, there is access to credit by farmers.

Our Colleague from the Bicol region will be interested to know that there is, in fact, a bill authored by Senator Macapagal which aims to amend the Agri-Agra Law. One of the main inhibiting factors in making farmers have access to agricultural credit is precisely the right of banks to substitute lending to farmers the buying of securities as part of their loan portfolio. I believe that there is support for this amendment, Mr. President, even coming from the Central Bank.

I think the policy and I would say not just of this administration but from the other Members of this Chamber, is to make credit accessible to those who need it, that is, the small farmers or the small entrepreneurs.

Senator Tatad. I thank the Lady for that answer, Mr. President. I do hope that when the bills come up for plenary discussion, these would enjoy the usual certification from the President just to express full support behind these bills.

Mr. President, let us now finally take a look at the text of the bill.

Senate Bill No. 1450 says in its *Declaration of Policy* that quantitative import restrictions are inefficient measures of promoting agricultural production because these measures increase investment uncertainty and raise the cost of doing business. It shall therefore be the policy of the State to adopt the use of tariffs in lieu of quantitative restrictions, except in the case of rice, which is the country's main staple, as a more transparent means of providing ample protection to local producers of agricultural products while they adjust to a more open trade regime.

We should like to be enlightened on the precise meaning of these words, Mr. President. If indeed quantitative restrictions do not promote agricultural production, perhaps the correct word is "productivity," if indeed quantitative restrictions enlarge the anxiety of investors and raise the cost of doing business, why should the country's staple, rice, the single food item that all or most of our people cannot do without, be saddled with quantitative restrictions while lesser sensitive agricultural products are free from those restrictions? Should rice not be the first item to be rid of any restriction that would work against productivity, investor's confidence and the reasonable cost of doing business? Is this a simple typing error or is this a function of poor analysis?

Senator Shahani. Mr. President, as has been stated, rice is the main staple food of the Filipinos. Therefore, there has to

be a steady and ample supply of this staple. It has been, I guess, the aim of every administration, to be self-sufficient in rice. But the approach of administrations has been different. There has been some uncertainty really on how we go about our rice production. We have asked for a moratorium on the lifting of quantitative restrictions on rice because it is a politically sensitive issue.

As far as the other products and the other commodities are concerned, we have recognized that we could lift the protective measures, the quantitative restrictions and put tariff on them. We feel that we could make this more competitive.

In the case of rice, Mr. President, there are other unknown factors. There is the irrigation which we are still debating here. There is also the policy on land use. Instead of subjecting that main staple to a period of transition, which we may not be ready to go into, we have started with products of lesser importance.

Senator Tatad. Mr. President, I am trying to question the policy formulation just to make sure that we are consistent in what we say. If we say that quantitative restrictions do not promote agricultural productivity and we need to ensure agricultural productivity in rice, there is a contradiction. So, either the statement is false with respect to quantitative restrictions or the case of rice is poorly represented in this presentation. This is all my concern.

Is it not possible that the real reason why rice remains protected—we have decided that rice should remain protected—is we have decided that the policy on rice should be one of self-sufficiency rather than one of self-reliance? If that were so, I believe we have to state it accurately. But as presently worded, this Declaration of Policy presents so many contradictions.

Senator Shahani. Mr. President, we have already stated at the beginning that the quantitative restrictions on rice will really begin after the nine-year period. This was quite clear.

The reason why we negotiated this in Geneva was precisely to give us time to think on such an important issue as rice. This gives us enough time to review the policy: Is it really self-sufficiency or self-reliance? Should we import rice in order that we can go into other crops?

Mr. President, even in the Department of Agriculture, this is not yet very clear insofar as I can understand the issue. So the quantitative restrictions on rice—that is, retaining it for some years—is a political decision to give time for the government to find out what direction we should really go into.

Under Secretary Sebastian, this may already have a begin-

ning. We have a grains enhancement program which would devote so many hectares only to rice and corn and the rest we can give to other high-value crops.

But this is a policy at the macro level, Mr. President. How well we can implement it at the local level still remains to be seen. So that the quantitative restrictions on rice, as I have said, is partly a political decision, since it is politically sensitive, and retaining the quantitative restrictions for nine years will give us enough time.

Anyway, this can also be reviewed. Should we want to shorten the period, should we want to lift it, Mr. President, is also a possibility which remains open to us.

Senator Tatad. Mr. President, I hope it is not being suggested that the other agricultural products are not so important as to allow us to rush headlong into tariffication. The statement that rice is a very important issue and we needed time to think, I hope, does not suggest that we did no thinking on the other products.

Senator Shahani. Mr. President, I am sure our Colleague from the Bicol region will know that that is not the intention. But certainly, making decisions on such a wide array of agricultural products needs some refinements in thinking about them. That is all. It is not a matter of either/or, but really a matter of responding to the situation as they really exist in the country today.

Senator Tatad. I submit, Mr. President, that economic decisions taken by government are political decisions. So the decision with respect to the other products were political decisions as well.

In any case, we can leave this behind. I hope that at the appropriate time, our distinguished Colleague would be hospitable to some rewording of this very important statement because in conscience, I cannot vote for a statement that contradicts itself.

Now, still on the *Declaration of Policy*, on page 2, second paragraph, it states:

To prepare the agricultural sector for global competition, the State aims to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, postharvest equipment and facilities, credit, research and development, extension, other market infrastructure and market information.

This phrase, "To prepare the agricultural sector for global

competition," tells us that the agricultural sector is not prepared for global competition and must yet be prepared for it.

Why then have we agreed to divest it of all protection? Should we not first have made it fit for global competition before removing or proposing to remove the protection from that sector?

Senator Shahani. Mr. President, I wish government and politics would proceed in a rational manner. I will admit—and I do not think this is the fault now of the present administration—that agriculture has been given low priority in this country. That is the tradition.

If we compare the attitude of Thailand, Taiwan and Japan towards agriculture, they have always given priority to this sector. They have praised their farmers. If one is a farmer's son, he is given some respect.

In this country, Mr. President, I think we all know our colonial past where maybe the Spaniards, or the colonizers, taught us it was better to work in an office, wear white coat and a hat to protect ourselves from the sun. But the tradition has really been to look down on the agricultural sector. That is the tradition in this country. It was really only the debate on GATT which woke up the leaders of government—I think all of us—to the challenge which globalization is now foisting before the country.

We can, of course, say, "Just give me enough time. I shall take my time, let the others wait." I wish we have that luxury, Mr. President, though I am not also for rushing headlong into any decision. The fact is, we really have to double time. We have to catch up with our ASEAN neighbors like Thailand and Indonesia.

As a matter of fact, we have the lowest performance in agriculture among the ASEAN countries. Bangladesh even performs better than we do in the field of agriculture. I will admit it, but in admitting it, I would not say that it is only the fault of this present administration. That is the tradition in this country.

This is correct. It is to prepare the agricultural sector since we have been on subsistence farming. We have plantation farming, but that is only for those who can go into corporate farming. The majority of our farmers live on subsistence agriculture. If they have any successful farmer cooperatives, which we hope will multiply, they are still in the minority.

Senator Tatad. I should like to support our Colleague's statement on agriculture. I believe that Thailand, which has become the world's leading exporter of tropical fruits, is being

run, as far as its agricultural sector is concerned, by people we have trained at UP Los Baños. In many other places, we share the same distinction. We were training other people to produce in other places. As for our own people, we train very good scholars who deliver excellent lectures in classrooms and international forums but who did very little agriculture. That is very sad.

Let us look at Section 8. It states:

Sec. 8. Agricultural Competitiveness Enhancement Fund. - To implement the policy enunciated in this Act, there is hereby created the Agricultural Competitiveness Enhancement Fund, hereinafter referred to as the Fund. Fifty percent (50%) of the proceeds from the importation of the minimum access volumes will accrue to this Fund; the remaining fifty percent (50%) of which shall be reverted to the National Treasury.

The fund shall be plowed back to the sectors/industries adversely affected by the repeal and shall be used solely to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension, and other marketing infrastructure and provision of market information.

The allocation of the Fund shall be based on the specific needs of the agricultural sector concerned.

The Committee on Agriculture of both the Senate and the House of Representatives of Congress shall conduct an annual oversight on the use of the Fund. The Fund shall have a term of nine (9) years.

I have a few questions about Section 8, Mr. President. If tariffication of quantitative restrictions is indeed going to be good for agriculture—as we have been repeatedly told it is going to be good for agriculture—why should the bill talk about sectors or industries adversely affected by the repeal, obviously referring to those that would be covered by tariffication? That is the first part of the question.

The Fund shall have a term of nine years. Is this not one way of saying that for nine years after tariffication, sensitive agricultural products covered by this measure are expected to go through a most difficult period of transition? If this is the case, why then is tariffication being presented as though it were a gift to the agricultural sector?

Senator Shahani. Mr. President, of course a transition period is to be expected. Let us say the garlic and the onion

farmers have been used to producing the quality of onion or garlic which they have wanted to without being penalized for not being competitive. Now, they will have to face the prospect of exports from other countries. So, there is a period of transition which I believe this bill recognizes and accepts.

If our Colleague from Bicol will remember, during the debate on the ratification of GATT, one of the requests of the farmers was that they be guaranteed a source of assistance should they meet difficulties and should they need other facilities. And it is really out of that promise which we gave them last year that this Agricultural Competitiveness Enhancement Fund is included in this bill, Mr. President.

Senator Tatad. I thank the Sponsor for that answer, Mr. President. May we now look at Section 5. Section 5 says:

Amendment to the National Grains Authority. The quantitative import restrictions on corn and other grains, except rice, are hereby repealed. The power of the National Food Authority, formerly the National Grains Authority, shall be confined to the importation of rice. For this purpose, subparagraph (xii), paragraph (a), Section 6 of Presidential Decree No. 4, otherwise known as the National Grains Authority Act, as amended, shall be amended accordingly.

Obviously, this modifies the policy consecrated in an existing NFA resolution which charges the NFA with the duty to export nonexistent rice and corn.

But my real difficulty is one of construction. What does the bill mean when it says “the National Grains Authority Act, as amended, shall be amended accordingly?” Does this mean that a separate and subsequent measure will be passed by Congress to amend this Act? Or should we not amend this in this bill itself, which means that if that is our meaning, we should say “the National Grains Authority Act, as amended, IS HEREBY amended accordingly,” not “shall be amended accordingly.” I just want a clarification.

Senator Shahani. What our Colleague from the Bicol region has said is correct, Mr. President. This bill should amend Presidential Decree No. 4 which set up the National Grains Authority.

Senator Tatad. So, the usage “shall be amended accordingly” is not quite correct.

Senator Shahani. That is correct, Mr. President.

Senator Tatad. I thank the Sponsor for that. Now, one

last question. The bill is entitled, AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QRs) ON AGRICULTURAL PRODUCTS EXCEPT RICE, WITH TARIFF, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND AND FOR OTHER PURPOSES.

If this is the intent of the bill, Mr. President, where are the proposed tariff rates? If this is a tariffication bill, where are the proposed tariff rates?

Senator Shahani. Mr. President, it is proposed in this bill that the President be allowed to come up with the tariff rates.

Senator Tatad. I think that is the core question, Mr. President. Why is the tariff setting left to the President when Congress, which has the primary tariff-setting power through this measure, can very well fix the tariff rates? The usual practice is for the President to exercise his tariff-setting power in emergency situations when the Congress is not in session.

By the end of this month, Congress goes on recess for the Lenten break. Is it mere coincidence that we are being told that we have to rush this tariffication measure before the end of the month to avoid being brought to the Dispute Settlement Body of the WTO so as to allow the President to fix the rates rather than the Congress which, as I have pointed out, has the primary power to do so?

Senator Shahani. No, Mr. President. There was no intention to circumvent the procedure of setting tariffs. That is why it took some time for us to wait for the House version, and why we decided to continue with the Senate version. But we were in close consultation with them. The House version does indicate the tariff rates, while the Senate version, under Section 6, authorizes the President to adjust the tariff rates on agricultural products.

The rates which have been proposed by the House are really identical with the tariff rates which the President, through NEDA, is recommending to set.

We shall be happy, Mr. President, to supply the Members of the House with these rates because I believe it is important. But I just wanted to make clear the difference between the House and the Senate versions. The reason I did this was, I needed guidance from this Chamber, knowing that the deadline is fast coming and we have not yet come up with the lifting of the quantitative restrictions through legislation. So I thought it was better to have two options before us to see which one would help us meet the deadline without, as I said, giving the impression that we are succumbing to pressure.

Senator Tatad. Mr. President, our tariff tax and appropriations measure are supposed to emanate from the House of Representatives under the Constitution. And in this case, there is a tariff bill coming from the House which contains the proposed tariff rates.

Are we to understand that Senate Bill No. 1450 is a bill that passed through the Committee without reference to the House bill?

Senator Shahani. Mr. President, I think an examination of the House bill will show that the two bills are practically identical, because we were in close consultation with the House. Although the Chamber must appreciate the setting of tariff rates, we were also very much concerned with the deadline which has been set by WTO, and the consequences of defaulting on that deadline.

As I said, the provisions are practically identical. We have been in close touch with our Colleagues both in the Committees on Agriculture and Food and on Ways and Means.

Perhaps Senator Enrile may wish to give further clarification on the tariff rates.

I would like to assure our Colleague, Mr. President, that we have observed the right of the House of Representatives to set tariff rates, but we were also concerned about the fact that we have to meet the deadline on March 26.

Senator Tatad. I believe, Mr. President, that the House bill shows in every way the power of the Congress to set the rates. The Senate bill delegates the power of Congress to the President. That, I believe, is a very important distinction.

Senator Enrile. Mr. President.

The President. May the Chair know the pleasure of Senator Enrile?

Senator Enrile. Mr. President, the primary purpose of the bill in question is to lift the quota restriction on certain agricultural products. This is done under the mandate of the GATT-Uruguay Round World Trade Organization Treaty. And in lieu of this quantitative restriction, it is allowed under the treaty—and this is precisely what we are doing—to tariffify or impose a tariffication by lifting the quota restrictions. It is allowed to substitute for that purpose a tariffication system in order to protect the domestic producers that may be affected by the lifting of the quota restriction.

Therefore, it is the humble view of this Representation that

there is no constitutional obstacle to this particular measure because the tariffication is germane to the very purpose of the bill, which is to lift the quota restrictions.

In fact, it is mandated that we substitute a tariff system in lieu of the quotas that will be lifted, and this could be done by the Senate.

Senator Tatad. I have no disagreement with our distinguished Colleague from Cagayan. Precisely, I am raising the point. If this is a tariffication measure, where are the proposed tariff rates? They are not in the bill.

Senator Enrile. We are delegating that power to the President, under the power granted to him to increase or decrease tariff levels on imported products on the basis of the economic interest of the country.

Senator Tatad. I am not questioning that power either, Mr. President. What I am positing here is that that power, before it belongs to the President, resides in Congress.

Senator Enrile. That is correct, Mr. President.

Senator Tatad. And right now that we are in the middle of legislating this tariffication measure, why is it not here? Why do we leave it later for the President to act upon? Greater transparency would ensue if Congress were to do it, because once it is delegated to the Executive, then all sorts of political play could come in, especially as we approach another election year.

Senator Enrile. Mr. President, it is a matter of approach to the problem. It has nothing to do with the validity or invalidity of the measure, whether we retain the power to impose the tariff rates or delegate it to the President. Considering that there are certain details or facts that may not be available to us at this time, we may not be able to anticipate all the factual situations that will arise as we go along in the implementation of this measure.

Perhaps, it is a matter of prudence that we should leave it to the President, given the presumption of good faith as the leader of the people to perform this job according to the national interest.

Senator Tatad. Mr. President, I am not suggesting that there would be infirmity if the President would be the one to set the rates. What I am saying is that the power resides primarily in us and we should exercise it.

The statement of our distinguished Colleague, the Sponsor of this measure, says that by March 26, 1996 we should tariffify. That means to say that we have to have had the necessary

information to go into the detailed composition of the system. If we did not have that, then we would still be in default. So to say that the President may have details which we do not have may not necessarily be acceptable because the Executive should have done its homework and should have supplied us with the details.

Thank you very much.

Senator Enrile. Mr. President, I do not know whether the Chair would recall that in some of the meetings of the joint Legislative-Executive Development Advisory Council, this matter was taken up. In fact, the tariff levels in lieu of quota restrictions have already been, more or less, determined, including the in-quota and out-quota importations.

The President. With the permission of the two Gentlemen as well as the Sponsor, only on the constitutional issue that had been raised by the distinguished Senator from Bicol.

May the Chair call the attention of this Body that one of the permissible instances of delegation of powers is found under Article VI, Section 28, paragraph (2) of the Constitution, and I read it into the *Record*:

The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.

But whether or not this power ought to be delegated is now a policy question that is, of course, subject to debate by this Body.

Senator Enrile. Thank you, Mr. President.

Senator Tatad. Mr. President, our submission is that we should do it rather than leave it to the President.

Thank you very much, Mr. President, and I thank the distinguished Sponsor for being very patient with my questions.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1450

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 1450, the Agricultural Tariffication Act, until tomorrow.

The President. Is there any objection? [*Silence*] There

being none, consideration of Senate Bill No. 1450 is suspended until tomorrow.

Senator Romulo. Mr. President, there is an Additional Reference of Business. May I ask the Secretary to read it.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

March 14, 1996

Hon. Neptali A. Gonzales
Senate President
Senate of the Philippines
Manila

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VII of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

to meet the urgent need to put in place the complementary structures and conditions to make the country a viable alternative to Hong Kong as a financial and investment center in the region.

Best regards.

(Sgd.) FIDEL V. RAMOS
President

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The President. Referred to the Committee on Rules.

MANIFESTATION OF SENATOR ROMULO
(Senator Revilla as Coauthor of S. No. 1431)

Senator Romulo. Mr. President, at the request of the

distinguished Gentleman from Sorsogon, Senator Honasan, may I manifest that for Senate Bill No. 1431, Sen. Ramon Revilla is a coauthor thereof.

The President. Let that manifestation be recorded in our *Journal*.

MANIFESTATION OF SENATOR ROMULO
(Senators Flavier and Revilla as Coauthors
of S. Nos. 1432 and 1433)

Senator Romulo. For Senate Bill Nos. 1432 and 1433, both Senators Flavier and Revilla be also made as coauthors thereof.

The President. Let that be noted.

Senator Romulo. Mr. President, may I also inform the Chamber that the printed copies of Senate Bill No. 1399, "An Act to Further Liberalize Foreign Investments, Amending for the Purpose Republic Act No. 7042, and for Other Purposes," were distributed to the Senators since Thursday for purposes of the rule on three-day printed copies.

Mr. President, may I ask permission to avail myself of the Privilege Hour.

The President. The distinguished Majority Leader, Senator Romulo, Chairman of the Committee on Rules, is hereby recognized for the Privilege Hour.

PRIVILEGE SPEECH OF SENATOR ROMULO
(Whence Comes Such Another?)

The following is the full text of the privilege speech of Senator Romulo:

Thirty-nine (39) years ago, President Ramon Magsaysay died in a plane crash:

In shock and with black arm bands, the Filipino nation then stood still and wept. For most of our countrymen it seemed like the end of the world. For the Filipino people had lost a father, a brother, a friend and a champion.

We asked then: "Whence comes such another?"

Today, as we remember and honor this beloved President, we ask: Have we lived up to his dreams and aspirations? Have we measured up to his standards and values? Have we kept faith with him?

RECORD OF THE SENATE

TUESDAY, MARCH 19, 1996

RESUMPTION OF THE SESSION

At 10:39 a.m., the session was resumed with the Hon. Orlando S. Mercado presiding.

The Presiding Officer [Senator Mercado]. The session is resumed.

Senator Romulo. Mr. President, before we resume consideration of the Agricultural Tariffication Act, may we ask the Secretary if there is an Additional Reference of Business.

The Secretary. There is no Additional Reference of Business, Mr. President.

Senator Romulo. Mr. President, may I just remind our Colleagues that in this afternoon's session, we shall resume consideration on Third Reading of the bill on Liberalization of Foreign Investments Act. There will be nominal voting, therefore, during the nominal voting, the Members of this Chamber may signify their reason for their *yes* or *no* vote.

SUSPENSION OF THE SESSION

Mr. President, before we resume consideration of the Agricultural Tariffication Act, may I ask for a very short suspension of the session so that our Colleagues can prepare for the period of interpellations and read the bill itself.

The Presiding Officer [Senator Mercado]. The session is

suspended for a few minutes, if there is no objection. [*There was none.*]

It was 10:40 a.m.

RESUMPTION OF THE SESSION

At 11:39 a.m., the session was resumed.

The Presiding Officer [Senator Mercado]. The session is resumed.

Senator Romulo. Mr. President, when we resume the session this afternoon, we shall take up the Agricultural Tariffication Act, the Home Consumption Value Act, the Irrigation Crisis Act, if there is still time, and the other bills in the Calendar for Special Order.

Mr. President, after discussing with the Members on the Floor, the Senate President Pro Tempore and the Minority Leader, we will start our session promptly at four o'clock this afternoon.

ADJOURNMENT OF THE SESSION

I therefore move that we adjourn this morning's session until four o'clock sharp this afternoon.

The Presiding Officer [Senator Mercado]. The session is adjourned until four o'clock this afternoon, if there is no objection. [*There was none.*]

It was 11:40 a.m.

ng karapatan sa ating mga Pilipino na nagkaroon na ng ibang citizenship sa iba't ibang kadahilanan, Pilipino pa rin ang naghahari sa kanilang damdamin at gusto nilang tumulong sa pag-unlad ng ating ekonomiya. Iyon na nga ang nagbibigay ng karapatan sa mga dating Filipino citizens na pumasok sa mga negosyo na para sa Pilipino lamang, maliban doon sa ipinagbabawal ng ating Saligang Batas.

Iyon namang susog ni Senador Herrera ay nagbibigay rin ng karapatan sa mga dating Pilipino na magkaroon ng lupa upang makapagpatayo ng negosyo na makakatulong sa ating bansa.

Ang panukalang batas ni Senador Drilon na naging bahagi ng panukalang batas na ito, ay nagkaroon ng napakasalimuot na diskusyon. Halos mawala na iyon dahil sa iniharap na mga panukalang susog. Halos tanggalin na iyon.

Ngunit noong magtanong ang Chairman natin sa inyong lingkod kung papayag akong tanggalin na lamang natin iyong bahagi ng panukalang nanggaling kay Senador Drilon, ang sabi ko ay boboto ako kontra sa susog na tanggalin iyong bahagi ng panukalang iniharap ni Senador Drilon. Sapagkat iyon talaga ang kailangan ng ating bansa upang makuha natin ang tulong ng mga Pilipinong nakatira na sa ibang bansa. Kahit nawala ang pagkamamamayang Pilipino nila, ang puso nila ay Pilipino pa rin.

Kaya, Ginoong Pangulo, dahil sa napakagandang susog na naipasok dito sa pamamagitan ng pagkokombina sa panukalang batas ni Senador Drilon at gayundin sa napakagandang susog ni Senador Herrera, lubos akong nakumbinsi sa aking sariling panukalang batas. Dahil doon, Ginoong Pangulo, ang aking boto ay *Oo*.

Senator Flavier. Mr. President.

The President. Senator Flavier is recognized.

EXPLANATION OF VOTE OF SENATOR FLAVIER

Senator Flavier. Ginoong Pangulo, tutol sana ako sa panukalang batas na ito dahil noong una ay nakalagay na ang mga banyagang anak ng mga dating Pilipino ay bibigyan na rin ng karapatan. Sapagkat ang bahaging iyon ay inalis na, ako ay buong pusong bumoboto sa panukalang batas na ito.

Marami pong salamat.

Senator Coseteng. Mr. President, I cast a negative vote.

Senator Romulo. Mr. President, we shall propose later in the session that the Senate panel will meet with the House panel

in the Bicameral Conference Committee.

Mr. President, we shall resume consideration of the Agricultural Tariffication Act—Senate Bill No. 1450. We are in the period of interpellations. Scheduled for interpellation this afternoon is the distinguished Minority Leader.

SUSPENSION OF THE SESSION

Before we resume consideration of the bill, may I ask for a short suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 4:25 p.m.

RESUMPTION OF THE SESSION

At 4:26 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING S. No. 1450 - Agricultural Tariffication Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Sponsor of the bill and the Chairman of the Committee on Agriculture and Food, Senator Shahani, with Senator Angara to interpellate, be recognized.

The President. Senator Shahani and Senator Angara are hereby recognized for purposes of sponsorship and interpellation, respectively.

Senator Angara. Thank you very much, Mr. President. Will the distinguished Sponsor answer some questions for clarification?

Senator Shahani. Mr. President, we shall be pleased to entertain questions from the distinguished Minority Leader.

Senator Angara. Mr. President, I will try not to overlap the areas already covered by the brilliant intervention yesterday

of my Colleague, Senator Tatad, and touch on other areas that were not covered.

My understanding, Mr. President, is that in the field of agriculture, the developing countries especially are given extra time as well as extra latitude in being able to protect their agricultural produce from immediate liberalization to the extent that the developing countries are authorized to impose—in the case of products that were subject of quantitative restrictions—a high enough tariff that will be equal to the protection afforded by quantitative restrictions.

Under this proposal, Mr. President—I have been looking for the tariff equivalent rate of protection but I could not see it—could the distinguished Sponsor tell us what would be the equivalent tariff rate of each of the agricultural produce from which quantitative restrictions will be lifted? For instance, what would be the proposed protective tariff for livestock, for pork, for poultry, for beef, for garlic, for onions, for cabbage, for potato, et cetera.

Can we have those proposed tariff for the record, Mr. President, so that we can judge whether or not the proposed tariff that will substitute for the quantitative restrictions would be protective enough?

Senator Shahani. Mr. President, the distinguished Minority Leader is right. Agricultural products have been given an extra time of 10 years to implement tariff reduction. In the case of the developed countries, this is only up to five years.

Mr. President, the tariff schedule is in the House bill itself, but the proposed tariff schedule is as follows. If the distinguished Senator would not mind, I will just read the product lines. It is quite a long one, but this is just to illustrate.

For instance, for live bovine animals, the in-quota tariff rate is 20 percent for 1996—that is 20 percent for every year until the year 2000. For the out-quota, that which is outside the minimum access volume, the tariff rates go down gradually from 1996 to the year 2000.

So, we start in 1996, Mr. President, with 40 percent; 40 percent for 1997; 40 percent for 1998. It goes down to 35 percent in 1999, and for the year 2000, we have again 35 percent.

I think, we can find the same trend for all of the other products. For live swine, for instance, weighing less than 50 kilograms, the in-quota remains the same from 1996, 1997, 1998, 1999 to the year 2000, while the out-quota which is higher again starts high. We start with 60 percent in 1996, 50 percent in 1997, being maintained at 50 percent in 1998, going down to

45 percent in 1999 and going down still at a lesser rate, 45 percent, to the year 2000.

So that is the trend, Mr. President. The tariff for the in-quota remains the same, but for the out-quota, it is gradually decreased.

Senator Angara. So the intention here, Mr. President, since we are going to delegate the tariff fixing to the President—which I really wonder why we are doing that and abdicate our right to fix the tariff—is that the suggested tariff rate that will be ultimately applied, or is this just a suggested rate?

Senator Shahani. Mr. President, I believe this was a matter of consultation between our two Committees, and I am sure the Chairman of the Committee on Ways and Means might also wish to clarify this point.

But we were very concerned about the deadline, Mr. President. I believe I was quite clear yesterday about the implications of not meeting the March 26 deadline.

Mr. President, agricultural products are a newcomer to the Uruguay Round of negotiations. Industrial products or industrial export was the original topic or subject of GATT. But the Philippines joined other developing countries as well as developed countries to insure that agricultural products came within the regime and the legal system of GATT.

So way back in 1981, we were one of the leaders among the developing countries which made sure that agricultural products came within the discipline of the GATT system. So it is important that the Philippines, with its background, honor its commitments in the agricultural sector.

As I said, the issue of time was something. If we will see the version of our Colleagues in the Lower House, the schedule of the proposed tariffs is included in their legislation. In our case, we have to think of a way by which we would be able to meet the deadline.

The Tariff Code was determined by the President. Under the Tariff Code, it has been given to him. As the Senate President said yesterday, the President may be given that mandate.

That is the situation, Mr. President. I think the House did want to assert its prerogative in this regard. Indeed, it has that prerogative. On the other hand, in the Senate, we took all that have been taken; that is, to allow the President to determine the tariff schedules.

Senator Angara. Mr. President, the issue here is not

whether or not we comply with our commitment to GATT. I think that is a nonissue. We are going to comply with our commitment to the WTO. The issue here is whether or not we are going to withdraw outright the protection to our critical agricultural produce without the necessary safeguards in place. Just simply literally complying with the deadline, I think, may not do justice to the cause of the farming community in this country.

When the Lady Senator mentioned these tariff rates were recommended by NEDA, was this in consultation with the different commodity sectors affected?

Senator Shahani. Yes, Mr. President. There is in place an interagency body called the NEDA Tariff and Related Matters, or TRM. They have been very busy in the Executive doing their own consultations. We in the Committee had conducted four hearings with the sectors themselves.

If we will recall, in the GATT debate, a lot of time and discussion were spent to guarantee or assure the small farmers that the bound rates would reach the maximum which they wished. That is part of the consultation process. We would like to assure the distinguished Minority Leader that the time spent in these consultations has indeed been substantial. This is not just a whimsical imposition of tariff rates.

Senator Angara. Yes, Mr. President. We ought to be very careful in the liberalization of our farm produce because it can wipe out very key and critical sectors. For instance, onions and garlic in Ilocos can very well be wiped out if we do not put up the tariff high enough to substitute for the quantitative restrictions. It can wipe out our poultry and piggery industry if we do not put up the necessary tariff high enough to substitute for the quantitative restrictions.

Let me move to other safeguards that I hope the government has already put in place or will put in place shortly before we make this lifting of the quantitative restrictions effective.

For instance, in case of an import surge, the GATT allows us not only to impose the maximum of 100 percent tariff.

Senator Shahani. Excuse me, Mr. President. I wonder whether the sound system could be improved because from this end, we can hardly hear the Minority Leader's questions.

Senator Angara. I was saying, Mr. President, that we ought to be certain that the safeguards, for instance, against import surges, against farm subsidies and other support of imported farm produce competing with our products are already in place in our country before we lift these quantitative restrictions and usher in almost unlimited competition against our own produce.

Onions and garlic are critical to the Ilocos provinces; the poultry and piggery industry is critical to Bulacan, for instance. And if we do not set the tariff rate high enough to be equal to the lifting of the quantitative restriction, it is not farfetched to think, Mr. President, that we can wipe out critical agricultural industries in this country.

So, I ask, for instance, under the WTO we can impose a 100 percent tariff in lieu of quantitative restriction. But in case of an unusual import surge—during one year there is a flood of onions and garlic into the market that is so unusual—the GATT also authorizes each developing country to impose an extra surcharge, extra tariff of up to a third of the existing tariff. So, it could technically be 130 percent of tariff.

Unfortunately, Mr. President, we cannot do that under the present Tariff and Customs Code because that is not authorized. Therefore, we must first of all, amend our Tariff and Customs Code to allow the President or Congress to impose the surcharge of 30 percent before we can take advantage of this safeguard allowed us by the WTO.

That is one of the safeguards, Mr. President. I think it is still not in place in our legal system.

Senator Shahani. That is correct, Mr. President. Under the WTO, member-countries are given the right to increase tariff rates by as much as one-third in case of an import surge. But we cannot take advantage of this provision which is imbedded in the agricultural agreement if we do not implement the lifting of the QRs.

Senator Angara. No, we can take advantage of that, Mr. President, provided that our own domestic laws allow it, and the present Tariff and Customs Code does not allow it unless we amend it first.

So, what I am suggesting is that we must first amend our Tariff and Customs Code to allow this imposition of extra tariff in case of import surge before we can take advantage effectively and actually of this right available to us under the WTO.

Senator Shahani. Mr. President, that tariff reform is taking place at the domestic level. Executive Order No. 288 has already been passed. Of course, membership in the WTO opens up to many avenues of reform.

I agree with that, Mr. President, and this is also something which the Tariff Commission must look into. But, certainly, those domestic reforms which would make domestic law, municipal law in keeping with our international commitments are already under way and in motion.

Senator Angara. What I am saying, Mr. President, is that, those protective measures ought to have been in place ahead of our complying with this lifting of the quantitative restrictions. Unless we provide that the lifting of the quantitative restrictions will not take effect until after we have amended our municipal laws, then there will be no protection at all to our agricultural produce against import surges and against subsidized farm inputs. And we stand to lose critical industries in our country unless we are ready to provide extra safety net or safeguard to our own domestic agricultural produce.

Senator Shahani. Mr. President, the House of Representatives which has the mandate to impose tariff rates and to undertake tariff reforms has before it House Bill No. 54 which proposes to amend Section 401 of the Tariff and Customs Code to allow the President the needed flexibility to increase tariffs.

Senator Angara. That is still in process, Mr. President.

Senator Shahani. Mr. President, as the Minority Leader knows, legislation takes time. But the important thing is that the political will is there. I believe the administration is aware of its responsibilities in this area.

Senator Angara. The political will will not help if the onions and garlic industry of Ilocos will be so flooded and will become dead in the process, Mr. President.

What we are just simply saying is that we may be in a rush to comply with our WTO obligations when we are not ready to provide protection to our own farmers. Protection to our own farmers is a right and a reality recognized and given to us by the WTO. That is all I am saying. I am not saying that we must now renege on an international commitment. We must, first of all, protect our farming community.

Senator Shahani. Mr. President, I also would like to give the impression that in wanting to meet the deadline, I think we are making haste slowly. I do not think the Sponsor would be standing up here if it was just to comply with what the WTO says.

There had been enough and sufficient consultations conducted by the Committee with the agricultural sector. But given the fact that we are entering an unknown territory, a *terra incognita* in a way, I think we can be satisfied in saying that we have compasses which will help us along the way.

As I said yesterday, it is not only the lifting of the quantitative restrictions or the imposition of maximum tariffs, but also making our farmers competitive by providing them with the safety nets, access to credit, and other tools needed.

Senator Angara. Talking of making our farmers competitive, Mr. President, again, we have not gotten to that stage where we have made our farmers competitive. In fact, except for vegetables and some cut flowers, every single agriculture commodity in this country, according to Raul Montemayor, a very well-known economist, is not competitive at all.

Again, the measures that will make our farmer competitive are still in the future, *en futuro*. They are not yet in place which will make our farmer competitive with the Thai farmer, with the Korean farmer, with the Texan farmer, with the Californian farmer, whose agricultural produce will certainly be less expensive and, probably, be flooding our market unless we take care first of the protection of our agricultural farmers.

Mr. President, there is a proposal here to have a so-called "minimum access." May I know how much has been collected from the minimum access volume and what is the disposition of the proceeds of this fund? Because as soon as we ratified the GATT, the President created a committee and set up a fund to which proceeds of the sale of the minimum access volume has been transferred. May I know what has happened to the proceeds of this MAV importation?

Senator Shahani. Mr. President, I wonder whether the distinguished Minority Leader is referring to this Agricultural Competitiveness Enhancement Fund?

Senator Angara. Yes, Mr. President.

Senator Shahani. These figures in Section 8 of Senate Bill No. 1450 are not really in place since it is still a proposal. They also appear in the Senate version but that is still a proposal. At least, our version states that 50 percent of the proceeds from the importation of the minimum access volume will accrue to this fund, and the remaining 50 percent will be reverted to the National Treasury.

I believe the House version states that 100 percent of the proceeds from the importation of the minimum access volume will accrue to this fund. That is the main difference, Mr. President.

Senator Angara. Mr. President, in December 1994 the President created the minimum access fund.

Senator Shahani. Mr. President, according to information, it really does not concern this fund, but as far as importation of corn is concerned, in 1995 the government earned P300 million. For sugar, it earned P17 million.

Senator Angara. What is the total proceeds of this

minimum access fund for rice? What is the disposition of the funds so far collected?

SUSPENSION OF THE SESSION

Senator Shahani. May I request for a one-minute suspension of the session, Mr. President.

The President. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 4:52 p.m.

RESUMPTION OF THE SESSION

At 4:53 p.m., the session was resumed.

The President. The session is resumed.

Senator Shahani. Mr. President, in 1994, the figure for rice is P600 million.

Senator Angara. May we have the figure for corn?

Senator Shahani. For corn, we have P300 million. For sugar, it is P17 million.

Senator Angara. Can the distinguished Sponsor tell us the disposition of these proceeds, Mr. President, if she knows?

Senator Shahani. Mr. President, according to information available to this Representation, part of this fund was used for post-harvest facilities and part of this fund was also used for the rehabilitation of the farmers who were hit by national disasters.

I believe the Minority Leader deserves a fuller response to his question. We will give him the outline of how this fund was used in greater details, Mr. President.

Senator Angara. I would appreciate that, Mr. President. Under this proposal, what is the estimated proceeds of this minimum access volume per year per commodity?

Senator Shahani. Mr. President, the estimated tariff collections from minimum access importations of selected commodities like beef, pork, poultry, potatoes, coffee, corn, rice or sugar are as follows: for 1995, P1,227,040,000; for 1996, P1,353,063,000; and for 1997, P1,479,090,000.

Senator Angara. So, for a period of nine years—because this fund will exist for nine years—it is safe to conclude that this fund will collect close to P12 billion?

Senator Shahani. That is about it, Mr. President.

Senator Angara. May we know the future uses of this fund? Not the past uses because the Lady Senator will provide me with the list of the past uses of the fund.

What will be the future use of this fund, Mr. President?

Senator Shahani. Mr. President, may I read the second paragraph of Section 8:

The Fund shall be plowed back to the sectors/ industries adversely affected by the repeal and shall be used solely to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension, and other marketing infrastructure and provision of market information.

It goes on to say that the allocation of the Fund shall be based on the specific needs of the agricultural sector concerned.

The third paragraph says: "The Committee on Agriculture of both the Senate and the House of Representatives of Congress shall conduct an annual oversight on the use of the Fund. The Fund shall have a term of nine (9) years."

Senator Angara. Mr. President, given these specific uses, are we not duplicating funding or are we not having an overlapping of funding for the same purpose? For instance, if we take the 1996 agricultural budget, we have already P8 billion in the regular budget and a proposed P12 billion under the special Irrigation Law. We have P2 billion for post-harvest facilities and other programs, and we have a P2.5 billion for other programs in agriculture.

Are we not duplicating very scarce resources in this area?

Senator Shahani. Mr. President, the distinguished Minority Leader will remember that in last year's debate on GATT, this was one of the conditions set by the farmers—that they would abide by the ratification if there was this Agricultural Competitive Enhancement Fund to enable them to be competitive.

Senator Angara. But the trouble, Mr. President, is that we set up an Agricultural Advisory Body composed of the different agricultural sectors. And when the money was spent out of this fund in 1995, they were not even consulted. Perhaps, we should rethink this scheme.

My point, Mr. President, is that we have here a P12 billion

fund available to us in the next 12 years. We should not duplicate the regular agricultural budget because we can help the different agricultural sectors and the different commodities in a more focused and specific way. Why should we duplicate irrigation funding? Why should we duplicate post-harvest funding? Why not select one specific activity that will advance the farmers' cause, for instance, in research and development, marketing, or in cooperative? Why should we go into this hard infrastructure which the regular budget of the Department of Agriculture already provides for and fritter away this opportunity to target assistance to the farmers? That is my point, Mr. President.

Senator Shahani. Mr. President, the Minority Leader has a point there. We were all one in the Senate in increasing the budget of the Department of Agriculture in an unprecedented manner for 1996, and the budget given to the DA was to the tune of P23.8 billion. The uses for that big amount of money are similar to what appears now in the second paragraph of Section 8.

I believe, Mr. President, that we should mention research and development. We should even, maybe, go into the use of more advanced farm equipment, et cetera. I shall be most happy if the Minority Leader could suggest other uses of this very big amount of money.

Senator Angara. Yes, I will do that at the right moment, Mr. President. But my more basic objection to this earmarking is the fact that we are, in effect, abdicating our right to appropriate public money by ceding this right immediately to a board which, in turn, will set up a quota system, accredit the importers, and identify the end-users.

Our experience regarding the quota system, Mr. President, whether it is in immigration or in importation of sardines, et cetera, has not always been a pleasant one. In fact, it becomes a graft-ridden system once we start setting up quotas and identifying importers.

So, is it not better that while we set aside and earmark the proceeds of the minimum access fund, we should not give up our right to appropriate this in advance, in favor of an administrative body that is not elected? For the sake of openness and transparency, I think there is much to be said about the open process of appropriating money through Congress because it is open to the public. It is very difficult to make secret deals about it and to favor certain sectors over the others.

My suggestion, Mr. President, is, while we still continue to set this aside and earmark it for competitiveness, we should not leave the disposition—the allocation and the setting up of a

quota system—to an administrative board. We should leave it to Congress to do it.

Senator Shahani. Mr. President, I think the distinguished Minority Leader has brought up an important point. Indeed, this was one of the hot issues which came up during the committee hearings. I wish Senator Enrile were here because he was one of those who, at first, really objected to the use of this quota system and having to choose those who will have access to the MAV which, as the Gentleman said, leads to corruption.

Now, Mr. President, in Section 7, it says: "An equitable and transparent mechanism for allocating the Minimum Access Volume (MAVs) of agricultural products..." This was really to forestall any tendency or possibility or potential for graft and corruption.

I believe the language of this bill can be improved, Mr. President. I shall be more than happy to entertain any suggestions from the Minority Leader or from any of his Colleagues which would give some guarantees that this will not go the way of similar funds in the past where we had quota users abusing that in turn.

Senator Angara. I cannot think of a more transparent mechanism of appropriating public money, Mr. President, than the traditional legislative process of appropriating money. Because here we subject it to public hearing wherein all the concerned sectors will be heard. It is open to the media and the decision is openly arrived at and announced publicly.

I do not believe that just simply saying in the law that the mechanism ought to be equitable and transparent will make it so. I think what will make it so is the entity or the agency or the process that we create here that will be seen and perceived as transparent because the process is transparent. It is well-known, it is recognized, and no one can say that it is a secretive deliberative body.

So I am really for recommending that instead of a board that will determine winners and losers in this regard by setting the quota and identifying the beneficiaries, we leave it to the usual manner of appropriating public money, which is through Congress.

Besides, Mr. President, I have serious doubts about the constitutionality of a provision which abdicates the power to appropriate in favor of an administrative body. But at the proper time, as the Sponsor has indicated, I would propose a change in this mechanism to make it, as the law says, "equitable and transparent."

Senator Shahani. Mr. President, I believe the Minority Leader has a good point. I really do not mind changing a mechanism to a superior entity. I just would like to say that whatever happens to this money which we get from the MAVs should go to the small farmers. I am sure the Minority Leader joins me in this concern.

Senator Angara. Yes. That is why, I think, the law ought to be more specific in targeting its beneficiaries and saying it so already in the law rather than leaving the choice of beneficiaries to an administrative board that is not elected by the people, since we are here dealing with public money and with a very significant and important sector of our economy—the farming community.

Once this law is approved, Mr. President, when does the tariffication take effect? Does it take effect, as usual, 15 days after publication? Or will this tariffication take effect as soon as everybody else in the agricultural world has complied with the tariffication?

Senator Shahani. Mr. President, the usual national procedure is 15 days after its publication in two widely circulated newspapers.

Senator Angara. So we follow our municipal law, Mr. President.

Senator Shahani. Yes, Mr. President.

Senator Angara. I just want to put this on record, Mr. President. Our principal trading partners, as far as agriculture is concerned, are the United States and Thailand. Just take these two examples. Have they also tariffied their quantitative restrictions and have they removed their export subsidies?

Senator Shahani. Yes, Mr. President. They have lifted their quantitative restrictions. They have tariffied those products which were under quantitative restrictions. I believe they have also lived up to their commitments to WTO to reduce subsidies and also to reduce domestic support.

Now whether or not this is done in its final form, I think that needs to be looked at because I am aware there is a domestic debate within the United States at the moment on the matter.

Senator Angara. That is what I am saying, Mr. President, that we may be in a rush to meet our international commitment. But on the other hand, our trading partners, the exporting agricultural countries like the United States and Thailand, may not have complied with their obligation with as much speed as we are doing now. As a result, once we have lifted these quantitative

restrictions, then we can immediately foresee a flood of imports of these items especially garlic and onions, and poultry and pork. Because poultry and pork, I understand, are more cheaply produced and raised in Thailand than in the Philippines. Onions and garlic are more cheaply produced in the United States.

If we say that this law, this tariffication will take effect immediately after 15 days, are we not subjecting and opening our agriculture to undue, unusual and unfair competition, because the other countries have not moved as fast?

Senator Shahani. Mr. President, we are talking here about the lifting of quantitative restrictions and tariffication of these products. It is on record that all members of the WTO that have agricultural products have already repealed all laws which give quantitative restrictions and have subsequently tariffied these products. That is on record. It is really only the Philippines now—and this is before the Agriculture Committee—which has not yet repealed the quantitative restrictions.

As far as indirect subsidies and safety nets are concerned, this is what I was referring to, Mr. President. Of course, the other countries do that. But insofar as quantitative restrictions and tariffications are concerned, all WTO member-countries except the Philippines, have all complied.

I really cannot do anymore than repeat the report of Ambassador Lilia Bautista in Geneva because this is what she says. She sits there as our representative.

Senator Angara. I have to repeat that warning, Mr. President, because, as we know, Ilocos Sur, for instance, is heavily dependent on garlic and onions, and if our guess is correct, then they could easily be wiped out by the influx of cheaper garlic and onions into the country.

In fact, even now, they are complaining about the low price of onions and garlic. As we know, onions and garlic are produced much more cheaply elsewhere than the Philippines.

Senator Shahani. Mr. President, I am told that even with the 100-percent tariff on the out-quota on garlic, the farmers can still get 35-percent return on the investment.

So, for some time, the garlic farmer is still protected. In the meantime, maybe we could take a look at how we can improve garlic production because, although the Ilocos provinces are well-known for their garlic production, I am not aware of any major move there to improve the quality of our garlic or even to food-process garlic, for instance, to make it into powder. The garlic industry has been stagnant all these times in the Ilocos provinces.

Senator Angara. I wish to thank the Sponsor, Mr. President. Just to repeat, I am for complying with the GATT because we supported the ratification of the GATT. We believe that free trade in the world will be good for our economy, but we also want to protect our agriculture. And we went to great lengths to assuage our farmers that the onset of GATT will not wipe them out through unfair competition.

Since this particular bill targets specific commodities that are vulnerable to imports and foreign competition, we must be certain that what we are saying here will prove true. Otherwise, the damage to our agriculture will be irreparable since it would be very hard to recover once competition has wiped us out.

Thank you very much, Mr. President.

Senator Shahani. Mr. President, I share the concern of the Minority Leader. I think all of us will have to cooperate in ensuring that the farmer does not unduly suffer during the spirit of transition.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, for the next interpellation, may I ask that the distinguished Lady from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized.

The President. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, will the distinguished Sponsor yield?

Senator Shahani. Mr. President, I shall be happy to entertain some questions from our Colleague from Pampanga, Pangasinan and Negros Occidental.

Senator Macapagal. Mr. President, in the sponsorship speech of the distinguished Sponsor, she said that by the end of this month, we face the prospect of having a member-country of the WTO bring a complaint against us—that is, the United States—for breach of Article IV.

Mr. President, what is Article IV?

Senator Shahani. Mr. President, that is the article on the need to repeal acts on quantitative restrictions.

Senator Macapagal. Mr. President, from what I can see, Article IV on page 10 of the Final Act is the structure of the WTO.

Senator Shahani. This is Part 3, Article IV, entitled "Market Access."

Senator Macapagal. Could we have the page in the Final Act, Part 3, Article IV? Is the Final Act divided into parts 1,2,3?

Senator Shahani. I do not know whether we are using the same document or publication, Mr. President, but I am using a document entitled "The Results of the Uruguay Round of Multilateral Trade Negotiations," the legal text.

Senator Macapagal. I am using the publication that we used when we defended the GATT, the official publication submitted to us when we had our GATT debates.

Senator Shahani. I think Senator Macapagal, Mr. President, is using the text put out by PhilExport.

Senator Macapagal. Whatever the text is, Mr. President.

Senator Shahani. I am just trying to make a clarification, because it is important. She is on page 45, if I may be allowed to say so, that is Part III, Article IV, Market Access. I have with me the official document of the WTO.

But since I have identified the pages, Mr. President, I think we can proceed.

Senator Macapagal. So we are talking about the Agreement on Agriculture, Part III, Article 4, the figure "4" not in Roman numeral. Because if we are just going to talk about Article 4, then that is the structure of the WTO.

I understand what the distinguished Sponsor was talking about, but I hoped that in a sponsorship speech, we could be more accurate.

So it is Part III, Article 4 of the Agreement on Agriculture, not Article IV of the Agreement. Because Article IV of the Agreement, especially Roman Numeral IV, which is what the text of the speech said, is the structure of the WTO.

Now that we know what we are talking about—in any case, I looked at Article IV of the WTO and I also found it relevant.

Senator Shahani. May we have the page which the Lady Senator is reading?

Senator Macapagal. Page 11, paragraph 3. I thought this might have been the provision that the distinguished Sponsor was referring to when she talked about Roman No. IV.

It says: "The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding."

Senator Enrile. Mr. President, with the permission of the Chair.

The President. What is the pleasure of Senator Enrile?

QUESTION OF PERSONAL PRIVILEGE OF
SENATOR ENRILE
(That Members be Furnished Copies of
Materials Being Read into the *Record*)

Senator Enrile. On a matter of personal privilege. We would like to be furnished with copies of these extraneous materials that are being read into the *Record*. Under the Rules, I think no one can read anything into the *Record* without furnishing the other Members copies of said materials.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a short suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 5:23 p.m.

RESUMPTION OF THE SESSION

At 5:40 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF
S. NO. 1450

Senator Romulo. Mr. President, while we are waiting for the documents in question, and after consultation with the Sponsor of Senate Bill No. 1450, I move that we suspend in the meantime consideration of said bill.

The President. Is there any objection to this motion? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1461—Shift from HCV to Transaction Value
(Continuation)

Senator Romulo. Mr. President, I move that we resume

consideration of Senate Bill No. 1461 as reported out under Committee Report No. 62.

The President. Resumption of consideration of Senate Bill No. 1461 is now in order.

Senator Romulo. Mr. President, may I ask that the Chairman of the Committee on Ways and Means, Senator Enrile, be recognized.

May I also ask that Senator Macapagal be recognized for her interpellation.

The President. Senators Enrile and Macapagal are hereby recognized.

Senator Macapagal. Mr. President, will the distinguished Gentleman yield just for a few questions for clarification inasmuch as I will certainly vote for this bill, being a principal author?

Senator Enrile. Gladly, Mr. President.

Senator Macapagal. Mr. President, a lot of our Colleagues as well as the general public have requested that we make this bill as clear to the layman as possible. I suppose the first thing that we would have to explain to them is: What is the meaning of home consumption value and why are we changing this basis to another measure?

Senator Enrile. The meaning of home consumption value, Mr. President?

Senator Macapagal. Yes, Mr. President.

Senator Enrile. I could only explain it by giving the definition of what a home consumption value is. I understand this value is the cost of the same, like or similar articles, as bought and sold or offered for sale freely in the usual wholesale quantities in the ordinary course of trade in the principal markets of the country on the date of exportation to the Philippines. In other words, if I understand it correctly, it is the going value in the domestic trade of the exporting country.

Senator Macapagal. In the Committee Report and the Senate bill accompanying the Committee Report, what is the basis of dutiable value that is being adopted?

Senator Enrile. During the period from the approval of this measure to December 31, 1999, the basis of the dutiable value of imported goods would be the so-called Brussels definition of value or the export value of the goods imported.

After December 31, 1999, the so-called transaction value will then be the dutiable value, and this value will be the actual price paid or payable by the buyer to the seller.

Senator Macapagal. So, what is the difference between home consumption value and the Brussels definition of value?

Senator Enrile. My understanding, Mr. President, is that, in the case of home consumption value, it includes all excise taxes and other charges in the local market, whereas the export value would be the net of those things.

Senator Macapagal. Why are we shifting from home consumption value to another basis of dutiable value?

Senator Enrile. I understand that there are several reasons for that. First, the value of our importation using the home consumption value is distorted to the extent of approximately 20 percent which affected our inflation rate domestically, and second, it makes our final products for export uncompetitive in the world market because of this surcharge.

Senator Macapagal. Mr. President, what are some of the commodities that we would now expect a lower price for because of this shift from home consumption value to another basis?

Senator Enrile. Mr. President, I can ask the Bureau of Customs to provide this information. But what we are concerned about at this point is simply the issue of whether we will or will not shift the system of valuation from what it is today to another regime.

I must confess that I did not go over all the dutiable goods importable into the country to be able to give an answer to these questions. That will mean going through the entire tariff of the country.

Senator Macapagal. Would it be fair to say that medicines or pharmaceuticals would be among those that would benefit the most?

Senator Enrile. I am not in a position to answer yes or no, Mr. President. Maybe if the Lady Senator can give us an information about this based on her studies, we will find out if we can accept her position or not.

But on the other hand, we are called upon to shift from our present system of valuation to a new regime in line with our commitment under the General Agreement on Tariffs and Trade- Uruguay Round and the World Trade Organization Treaty as ratified by us.

Senator Macapagal. Mr. President, according to our commitment, we are supposed to shift from home consumption value to transaction value under the WTO. Is this correct?

Senator Enrile. I beg the Lady Senator's pardon.

Senator Macapagal. Is our commitment under the WTO to shift from home consumption value to transaction value?

Senator Enrile. Mr. President, while the best evidence of our commitment is the Treaty itself—that is a rule of evidence that we all know as lawyers—I would say that we adhered to the GATT in 1980 and at that time, the rule on valuation had already been adopted; we were not a signatory to it. But as newcomers, having ratified the Treaty, my understanding is that, we are given five years to make the adjustment.

We can either go directly into the transaction value system of valuing imports into the country or we may postpone it for five years using a transition period. I think that is what has been accepted and adopted by the House.

Senator Macapagal. What is the reason why we have an intermediate basis of valuation before going to the transaction value?

Senator Enrile. First, we have to build our library of values; second, the extent of revenue losses will be rather high, I understand, if we make the shift immediately.

Senator Macapagal. What is the expected revenue loss in shifting from home consumption value to transaction value, Mr. President?

Senator Enrile. My recollection of the figure is about P3.4 billion, Mr. President.

Senator Macapagal. And if we have the intermediate step instead, to shift from the home consumption value to the Brussels definition, what would be the revenue loss?

Senator Enrile. I do not know the exact figure, Mr. President. But it will be less than that.

Senator Macapagal. Mr. President, earlier, I asked, and the Gentleman obliged, about the difference between home consumption value and the Brussels definition. What is now the difference between the Brussels definition of value and the transaction value?

Senator Enrile. Mr. President, the primary evidence of the value will be the invoice value. When we buy goods for impor-

tation to the country, the seller will issue an invoice. That is the transaction value; that is why it is called "transaction value."

Senator Macapagal. Is the transaction value lower than the export value?

Senator Enrile. It is assumed that they should be the same, Mr. President. But it could be lower depending upon the arrangement between the seller and the buyer in an arm's length transaction. There could be discounts, rebates and other factors that could lower the price depending upon the quantities to be imported. That is why the value, the price, the aggregate price or the unit price stated in the invoice is assumed to be the true and actual value paid by the buyer to the seller.

That is subject, of course, to the right of the Philippine government through the Bureau of Customs, and through the Commissioner of Customs, to accept that value if in his opinion it is the correct value. If he has doubt, then the burden of proof to establish the true value would be shifted from the government to the importer. The importer must justify that the value stated in the invoice is the transaction or the actual value paid by him to the seller.

Senator Macapagal. Mr. President, right now, we get our home consumption values through information provided by SGS. Prior to SGS, our information came from our commercial attachés.

When we shift to the export value, will we still need an SGS or a commercial attaché in order to give us the information on the Brussels definition of value?

Senator Enrile. Both, Mr. President, if SGS is still working for the government. If not, the Bureau of Customs will perform its function in the same manner that it did when I was the Commissioner of Customs. We relied on published values in trade and business periodicals. We get these values from information supplied by consular officers. We get these values from information supplied by our revenue attachés and commercial attachés and diplomatic officer and from other information. In some cases, we have imported articles into the country with blue book values.

One of the purposes why we have a transition period is that we have to build up a store of values so that our Bureau of Customs officials can perform its functions efficiently in determining the dutiable values, not only in terms of information materials but also in terms of skills of the examiners and the appraisers.

Senator Macapagal. Mr. President, if later on, when we

have shifted from the transaction value, we find that for specific shipments the transaction value declared is significantly different from the export value as has been built up in the records of the Customs, would this be a prima facie evidence of undervaluation?

Senator Enrile. Then, Mr. President, the Commissioner of Customs can say, "We do not accept your invoice value. Submit to us other documents to prove that this is what you actually paid. Because we have an information that this is not the value. And if you cannot do that, then we will expose you to a public hearing to determine the true value."

Senator Macapagal. So that is the true meaning of building up the library of values—the period when the export values being used is to build up the values against which one can check the accuracy of the declaration when we move to the transaction value?

Senator Enrile. Yes, more or less, Mr. President. But apart from that, in the law, it is stated that the Bureau of Customs will now publish the values they have on recurring imports, because there are recurring imports in the bureau. The Lady Senator knows this.

Once these are published, then they are not contested by the importers or any other interested party like a competitor. For instance, if one is importing appliances, then these values will become automatically the basis of determining whether the invoice value is the correct value.

But the primary evidence of value—and it has to be accepted—as the primary basis for determining dutiable value is the invoice value.

Senator Macapagal. Under the transaction value system.

Senator Enrile. That is why it is called transaction value. If one is the seller to me, as the importer, what I pay to him is the transaction value.

Senator Macapagal. Mr. President, if the transaction value is approximately the same as the export value, then that means that the revenue loss would be about the same, whether we are talking about export value or transaction value.

Senator Enrile. What is the same?

Senator Macapagal. So it is not so much the difference in revenue that is the cause for having a transitory basis for valuation but rather the need to build up the library of values.

Senator Enrile. No, Mr. President. Based on our experience—those who have handled the bureau—theoretically, the export value and the consumption value would differ. Because when we determine the home consumption value, there are certain taxes and regulatory fees that may be charged and put as part of the price in that market and which is taken as the value at which we determine the tariffs or duties to be imposed on this particular importation.

In the case of the export price of commodities in the same country, normally, the export price differs because the export price does not carry the domestic tax or regulatory fees.

Senator Macapagal. It is quite clear that the export price will differ from the home consumption value. What I was saying is that if the export price will be approximately the same as the transaction value, then, if the estimated loss of revenue from adopting the transaction value is about P3.4 billion, that will also be the estimated loss by shifting from the transaction value to the export value?

Senator Enrile. Well, yes and no, because it could be that the export value will not be in *pari passu* as the invoice value because the importer would probably under-invoice. And that is why the government could incur losses if it does not have a basis of comparison.

Senator Macapagal. So, when the Department of Finance estimated the revenue loss by shifting from home consumption value to transaction value, they assumed that there would be undervaluation?

SUSPENSION OF THE SESSION

Senator Enrile. Just a minute, Mr. President. May I ask for a one-minute suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:01 p.m.

RESUMPTION OF THE SESSION

At 6:02 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. To answer the question of the Lady Senator, Mr. President, the estimated loss of the government if we shift from home consumption value to the Brussels definition of value is approximately P3.4 billion, plus or minus. However,

because of the possibility of underdeclaration of value or possible misdeclaration or understatement of the quantity, although one states the value correctly—and this has happened before—the possibility of a bigger loss is not farfetched, so that the P3.4 billion will be a minimum loss using the Brussels definition of value.

Senator Macapagal. And if we shift straight from home consumption value to the transaction value because we have no library of values, the possibility of underdeclaration will be greater and, therefore, the revenue loss will be greater?

Senator Enrile. Mr. President, that is a theoretical possibility. But there are those who suggest that it would be better for us to go straight from home consumption value to transaction value because we should take advantage of our contract with SGS which is obligated to provide us with the correct values for these imports. But prudence would dictate that we must do this in a graduated manner in order to train our manpower and, at the same time, establish a reliable data base for the values of goods that we import.

Five years of transition would be sufficient because by then we shall have established a data base sufficient to protect the revenue interest of the government from the customs service.

Senator Macapagal. So, moving from home consumption value to export value and then to transaction value could also be considered as a liberalization measure. Could it not? Because it will end up with a lower actual absolute value of tariff collections per unit of importation.

Senator Enrile. Yes, Mr. President. But our purpose here in this particular matter before us is, we are not really dealing with import liberalization. We are talking of the revenue of government. While we have adopted the policy of liberalizing our foreign trade, especially our importation of goods, nevertheless, I think it is our responsibility to see to it that in accepting liberalization, our revenue sources from the Bureau of Customs would not suffer that much.

Senator Macapagal. Yes, we can accept that we should administratively maximize our collections by preventing leakage. But what I am trying to suggest is that the shift itself from home consumption value to transaction value is in itself a liberalization measure.

Senator Enrile. Yes, Mr. President, in the same manner that the shift from home consumption value to the Brussels definition of value is in itself a part of our liberalization policy.

Senator Macapagal. Yes, that is true. In other words, this bill is part of our package of liberalization measures. The reason we are moving first to export value is that we want to be prudent in our liberalization.

Senator Enrile. Mr. President, I look at this measure more as a step towards our effort to comply with whatever we committed under the World Trade Organization Treaty. That is the primary concern.

Domestically, this is a part of the overall policy of government to liberalize imports. Concomitant to this is the desire of our government and our people to attract more investments here because we are now allowing market forces to dictate the pricing system of our imports rather than using a basis for dutiable value which is artificially inflated to the extent of 20 percent, according to some knowledgeable people.

Senator Macapagal. Mr. President, is it true that we are the only country in the world now which is still using the home consumption value?

Senator Enrile. That is the information that I received, Mr. President, although somebody said we are one of two. I think one is an unknown little town in the great expanse of the Pacific.

Senator Macapagal. Mr. President, there is also a provision in the GATT on Anti-Dumping Law. I just want to make it very clear on the record that although we are shifting from home consumption value to the transaction value, with an intermediate step as the exports value, when it comes to adjudicating anti-dumping cases, the basis for valuation will still be the home consumption value?

Senator Enrile. Mr. President, as far as I can understand, the measures to protect us from dumping have already been established by other legislations. This measure that we are discussing would be simply a standard for determining whether the goods being imported by us are really valued correctly according to the transaction between the buyer and the seller so that we will not lose revenue.

Senator Macapagal. The reason why I am trying to make this clear, Mr. President, is that when we passed the Anti-Dumping Law, we were still under the regime of the home consumption value. And unless we make it very clear now that the basis for valuation in an anti-dumping case is still the home consumption value, we might find that some of those who will implement anti-dumping measures will misinterpret the dutiable value to mean the value that we are adopting now. That is why I wanted to make it clear.

Senator Enrile. When we adopt this valuation system, Mr. President, the valuation system under the Anti-Dumping Law will be affected correspondingly. But if we apply the home consumption value as a basis of determining the dutiable value of goods that are supposed to be dumped into the country, I do not think we can do that anymore because we are a unitary legal system. We cannot use one standard for one purpose and another standard for revenue purposes. These are in the same genus of laws.

SUSPENSION OF THE SESSION

Senator Macapagal. Mr. President, I would have to read from the GATT Agreement regarding anti-dumping and valuation. Although I do not agree, since the distinguished Sponsor earlier said that all quotations must be preceded by a distribution of copies, may I ask for a suspension of the session for that purpose.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:12 p.m.

RESUMPTION OF THE SESSION

At 6:14 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, to answer the Lady Senator regarding the basis for calculating the values in connection with an anti-dumping case, I understand that the special law that was passed uses the home consumption value. Therefore, it will be necessary for an amendatory law to be introduced in order to harmonize that special law with the standard of valuation provided in this particular measure.

Senator Macapagal. But if no such express amendment to the Anti-Dumping Law is made, notwithstanding that we are now shifting from home consumption value to export value, the basis for valuation for anti-dumping will still be the home consumption value.

Senator Enrile. Yes, Mr. President. That is in the law.

Senator Macapagal. So, with that clarification, Mr. President, I terminate my interpellation and reiterate my support for

our bill, and may I request that Senator Herrera be considered a coauthor of the bill.

Senator Enrile. May I just state into the *Record*, Mr. President, that I was informed that the GATT-Uruguay Round Agreement provides that anti-dumping could not be addressed by normal valuation system under the customs system of a country. Therefore, the Lady Senator is correct that probably we will have to amend that special law dealing with anti-dumping.

Senator Romulo. Mr. President, may I ask that Senator Herrera be recognized to interpellate.

The President. Senator Herrera is recognized.

Senator Herrera. Thank you, Mr. President. Will the Gentleman yield for a few questions?

Senator Enrile. Willingly, Mr. President.

Senator Herrera. First of all, I would like to put into the *Record* that I am supporting the shift from home consumption value to transaction value. It is not only because of our treaty commitment but also because it is the better scheme.

However, Mr. President, there are certain points which I would like to raise and one of them is the revenue impact.

Let me start with some points or issues raised by some newspapers regarding the shift from HCV to transaction value.

Mr. President, Commissioner Guillermo Parayno told the *Business World* that the total revenue that will be wiped out in the shift from HCV to transaction value is P10 billion, higher than the Department of Finance's earlier projection of P7.8 billion due to several add-on costs. Would the Gentleman like to comment on that?

Senator Enrile. Mr. President, between the Commissioner of Customs and the Secretary of Finance, I would accept the statement of the Secretary of Finance. He is the responsible man in charge of the fiscal position of the government. He designs fiscal policy. If he says it is P3.4 billion, I have no basis to contradict that.

Senator Herrera. Mr. President, the estimate of P7.8 billion projected by the Department of Finance seems to be the realistic estimate of the revenue.

Senator Enrile. Seven point eight billion pesos?

Senator Herrera. That is according to the *Business World*.

Senator Enrile. The record that was given to this Representation, when we conducted a hearing in connection with the budget of the Finance Department for 1996, was that the revenue loss in the shift is P3.4 billion. I have to accept that official position of the Secretary of Finance.

Senator Herrera. Is that the position taken by the Department of Finance or is this the study made by Dr. Erlinda Medalla saying that it is P3.4 or P3.5 billion?

Senator Enrile. This was an estimate given to us in the documents that they submitted in this Hall when we conducted the hearing, Mr. President.

Senator Herrera. Precisely. I would like to clarify this, Mr. President, because there were three studies conducted on the loss of revenues. One, a high of P16 billion. Then we have the study made by Dr. Erlinda Medalla, which is a lower amount, something like P3.4 billion or P3.5 billion. Then there is also another study of something like P7 billion.

Do I take it that the position taken by the Department of Finance is the one in line with the study made by Dr. Medalla?

Senator Enrile. My recollection, Mr. President, is that this P3.4 billion was actually stated in the presentation of the Bureau of Customs of its revenue estimate of receipts and losses for 1996, assuming that we would have shifted already from the present home consumption value system of determining dutiable value to the Brussels definition of value.

Senator Herrera. Could the Gentleman tell us, Mr. President, what would be the revenue collections of the Bureau of Customs, assuming that we can approve this bill and this becomes a law, together with the revenue losses as a result of the restructuring of our tariff system?

If the Gentleman will recall, last year, sometime in August or July, the executive department restructured this tariff of about 4,000 items. Could the Gentleman just give us an idea how much income we lost from the collections of the Bureau of Customs in 1996?

Senator Enrile. Mr. President, frankly, I do not have that information. I did not consider it important to take up in dealing with the shift of a system of valuation to another system of valuation because my understanding is that in the interim, we are not actually shifting to transaction value immediately. We are shifting to an interim system, and I relied on the presentation to us during the hearings here of their budget. My recollection is that they would be raising a total of P108.5 billion from the Bureau of Customs in the current year.

Senator Herrera. With due respect to the opinion of the Gentleman, Mr. President, I disagree that the matter of determining the loss of revenues as a result of the restructuring of tariff, as well as the shifting even to this intermediate scheme of basing the valuation on the export value, is not important, because that would mean we have to sacrifice in the immediate future certain activities of the government. In fact, one of the reasons why there was hesitancy to immediately shift from HCV to transaction value is that we would like to pace the implementation of this scheme because of the tremendous loss of revenues.

The reason I am asking for that, Mr. President, is as we deliberate on this bill, we will know what services of the government will be affected by this.

Senator Enrile. For the information of the distinguished Gentleman from Bohol, I was told that the 1996 projection of revenue losses arising from tariff restructuring after EO 470 is approximately P11 billion.

Senator Herrera. So we will forego P11 billion, Mr. President, and then if we approve this bill, immediately, we will have to add to that about P3 billion to P4 billion?

Senator Enrile. It is simply an estimate, Mr. President. We do not know whether this will come to pass. It might be that with the shift, the volume of imports will rise and this would offset this expected loss.

In other words, what I am saying is, this being an estimate, it is simply an educated guess.

Senator Herrera. I am glad, Mr. President, that the distinguished Gentleman mentioned that this is an educated estimate because there are certain ways of determining certain projections that would at least give us an almost accurate idea.

So this is not just guesswork that we pick in the air? This is very important in the sense that we will be using this for our decision-making process.

Mr. President, if I may proceed with my interpellation. In addition to this possible loss of income in this shift from HCV to transaction value, or as the distinguished Gentleman said, the "intermediate scheme" which is based on export value, could he give us also—as the Chairman of the Committee on Ways and Means, I am sure he must have studied the implication of all these revenue bills now pending both in the Senate and in the House—some idea on the E-VAT? What will come out on that from the House?

Senator Enrile. Frankly, Mr. President, I am as confused as the Gentleman is about the status of the E-VAT or I-VAT in the House. So at this point, it is very difficult to give any answer with respect to this particular measure.

On the other hand, the version of the House bill, a copy of which has been submitted to the Ways and Means Committee, suggested a very mild revision of the revenue harvest from the Expanded Value-Added Tax. But this will probably change radically once the final version is passed by the House. Some say that it could be between P1 billion to a high of P17 billion. At this point, we do not know, Mr. President.

Senator Herrera. I know. But there are reports in the media. In our talk with some of the members of the House, they were talking of about 14 amendments, which according to the Department of Finance and as published in the newspapers yesterday, might amount to something like P17 billion.

I am raising this question, Mr. President, because at this point in time, I would really like to know from the distinguished Gentleman, as the Chairman of the Committee on Ways and Means, what will be his recommendation on a personal basis. Because this is something that we still have to take up in the Committee. Have we taken into consideration the potential loss of income from the Bureau of Customs on the restructuring of tariff on this particular bill, and possibly, in the case of the E-VAT?

Senator Enrile. Mr. President, to be candid with the distinguished Gentleman, we have been conducting hearings on this. We have not made up our minds, and we have not quantified what will be the acceptable limits of revenue losses or giveaways that we are willing to accept. We could not, at this point, satisfy the Gentleman's desire to know the exact figure.

Senator Herrera. Does the distinguished Gentleman not think that at this point, we should now try to project what Congress is prepared to lose in terms of revenues as we are tackling measures of this nature?

Senator Enrile. Mr. President, I suppose that will be material when we consider the E-VAT Law and the tax reform measures. But at this point, as I said, we have not really quantified the possible losses, if there are such losses.

Senator Herrera. That is precisely my point, Mr. President. Does the Gentleman not think that we should now start quantifying so that we can be guided accordingly when we make a decision on bills of this nature?

For instance, as I have said earlier, I have no objection to this

bill. I am supportive of this bill, not just because we are a signatory to the treaty but because I believe that this is a better scheme.

On the other hand, Mr. President, I think it is important for us to quantify revenue impacts, for eventually we have to decide on the budget of this government. We have to know what will be the implication of the transaction value shift and other revenue bills on the revenues of the government. That is precisely the reason why I am raising this question.

Senator Enrile. As I have already answered the Gentleman, we have not quantified the possible losses. And I assume all along that the possible losses arising from this bill, having been authored by the distinguished Lady Senator and the distinguished Gentleman, have already been quantified by the Proponent.

Senator Herrera. The distinguished Gentleman has already answered that as far as the revenue losses are concerned as regards this bill. I would like to relate this matter with the other bills now that are considered as administration measures, being part of the reform agenda.

I am not objecting to this bill; I am only concerned about the revenue loss.

Senator Enrile. We cannot possibly make an estimate, Mr. President. As I have already stated into the *Record*, we do not know what is the extent of the finished product arising from the effort of the House of Representatives with respect to the I-VAT or E-VAT. Whatever we say here is not really an absolute figure. It will simply be a guess. I would rather not guess.

Senator Herrera. Mr. President, this bill will eventually come to the Senate and we have to make our own decision.

Senator Enrile. At the proper time, Mr. President, we will make up our minds. But not now.

Senator Herrera. Probably, the distinguished Gentleman can help make up our minds since he is the Chairman of the Committee on Ways and Means. Precisely, the reason why I am tackling this issue is that, we have to relate this with the other bills if we decide on this.

Senator Enrile. Mr. President, I am not yet prepared to help the distinguished Gentleman to make up his mind with respect to the other bills. I am just dealing with the present bill.

Senator Herrera. Thank you, Mr. President, for that reply. So, we are not yet prepared to tackle the quantification of all

these tax measures pending before Congress.

Senator Enrile. First of all, the tax reform measure, the income tax reform, both for individual and corporate, is still in the debating stage in the Executive. It has not reached the House of Representatives yet. In fact, if it has reached the House of Representatives, I suppose it is still in the Committee. It has not been reported out for debate.

So, we do not know the shift of that reform package, in the case of the proposed shift from ad valorem tax to specific tax.

In the case of certain domestic products like cigarette and fermented liquor, there is no fixity of what the nature of the tax regimen would be. And in the case of the I-VAT, I have already stated repeatedly that it is still being worked out in the House of Representatives. It is being debated. We do not know whether the Representatives will agree to 12 amendments, 13, 15, 16 or a hundred changes, so we could not quantify.

Senator Herrera. Mr. President, I think we are not speaking on the same wavelength.

Senator Enrile. I think we do, Mr. President, but it is simply that I cannot give an estimate of losses. It could be P1 billion, P10 billion, P50 billion, but those are guesses because the basis for making an estimate is not yet a final product.

Senator Herrera. The Sponsor has already stated that the Committee is not yet ready to quantify what will be the possible impact on the revenues as far as these pending bills are concerned. Fine. I am just asking whether the Committee has already started or has already the quantification. And if we do not yet have the quantification, does the Sponsor not think that we should start quantifying so that we can be guided when we tackle bills of this nature?

Senator Enrile. That is the very reason why we have been conducting hearings, Mr. President. May I suggest that the distinguished Gentleman help us and join us in the hearings? He will be a great help to us if he will attend the hearings so that we can hear the witnesses and so that we can really establish the levels of revenues either way, revenues that we can either realize or lose.

Senator Herrera. Gladly, Mr. President. Whatever little contribution I can give to the Committee, I will share it. And that is precisely the reason why I am trying my best to attend all the hearings of his Committee.

But let us go back now to the main issue. In this bill, Mr.

President, the shift to transaction value will be in the year 2000. But there is an intermediate scheme between now and the year 2000, which is the valuation based on the export value.

Senator Enrile. That is correct, Mr. President. That is provided in Section 2.

Senator Herrera. Mr. President, certain studies are made and issues are raised like there might be an increase of incidence of undervaluation.

Senator Enrile. That is accepted, Mr. President.

Senator Herrera. Do we have the administrative capability or the necessary measures now in the Bureau of Customs to protect the government?

Senator Enrile. Right now, Mr. President, at least we have the contract with SGS. I suppose that would help us until its terminal date. In the meantime, we would be gathering information from various sources. In fact, I precisely asked the Bureau of Customs for its position on this, and I would like to read into the *Record*, if the hours would allow me, what the Bureau of Customs wrote to one of the staff members of this humble Representation.

It says:

The Bureau of Customs now is in the process of building up export data through SGS which is estimated to reach 250,000 records by June 1996, 500,000 records at the end of the current year, and 2,000,000 in March 1998 when the SGS-CISS contract expires.

By March 1998, VCL should be able to update or increase the export value file through information source from import entries, import invoices, international publications, trade publications, market research, internet, and consular reports.

And given the present information aids, Mr. President, and the use of interlink computer system, I think we can easily now touch base with various countries in the world and get the correct value on certain imports to this country.

Senator Herrera. I recall, Mr. President, that part of the agreement with SGS is for the SGS to help the Bureau of Customs in the putting up of the valuation library.

Could the Gentleman update us on the status of this valuation library which is very important to increase the capability of

the Bureau of Customs to implement the scheme provided under this bill?

Senator Enrile. That is exactly what I have read, Mr. President. If the Gentleman would want, I will read the entire letter.

Senator Herrera. Yes, please.

Senator Enrile.

REPUBLIC OF THE PHILIPPINES
Department of Finance
Bureau of Customs, Manila

March 18, 1996

Mr. Tomas C. Toledo
Senate Tax Study and Research Office
Manila

Dear Mr. Toledo:

In compliance with your letter dated 14 March 1996, requesting information on the status of the Customs Valuation Center Library particularly on the availability of the valuation materials to determine values under BDV and beyond, please find attached a copy of the Valuation Center and Library Enhancement Program (March 1996), which supplements the existing Valuation Center and Library System (VCL) of the Bureau of Customs.

Presently, the VCL stores up value information on the fair market value of imported articles with impending shift in Customs valuation. The Bureau of Customs now is in the process of building up export data through the SGS which is estimated to reach 250,000 records by June 1996, 500,000 records at the end of the current year and 2,000,000 in March 1990 when the SGS-CISS contract expires.

By March 1998, VCL should be able to update or increase the export value file through information source from import entries, import invoices, international publications, trade publications, market research, internet and consular reports.

During the regular period, that is when the transaction value shall have been in place, the export value database may be useful but only insofar as establishing "doubt" as to the genuineness of the

correctness of the Invoice Transaction Value in view of the GATT proscription against the use of minimum values in Customs assessment period.

For information,

(Sgd.) TITOS V. VILLANUEVA
Deputy Commissioner

Senator Herrera. Now, under the Agreement, Mr. President, we are supposed to have five years to implement the transaction value.

Senator Enrile. That is correct, Mr. President. That is exactly what we are doing.

Senator Herrera. I know. But since there is an intermediate scheme in the bill in which we will lose revenues, based on the Department of Finance estimate, as the Gentleman has said, of about P3.4 billion to P4 billion, does the Gentleman not think it would be a wise decision that we delay the shift for four years? We do not have to implement the intermediate scheme in order to prevent the loss of P4 billion. Because we have to consider that we have restructured our tariff, and according to the Department of Finance, we lost about P11 billion in 1996.

Senator Enrile. Mr. President, I do not think we can postpone this. First of all, if we postpone this up to the end of the five-year period, we might not be able to build our valuation library by then. We will be caught up by events, and we will be scampering to find the materials to protect ourselves. That is why we are adopting this transition period.

I would like to commend the distinguished Lady from Pampanga, Senator Macapagal, who is a member of the Conscience Bloc, for the foresight that she has in authoring a bill adopting the Brussels definition of value. That is why we adopted her idea.

Senator Herrera. I thought we already had a valuation library. The Gentleman has just read the communication from the Bureau of Customs. So I was surprised when the Gentleman said that if we do not implement this now, we will not be able to build the valuation library.

Senator Enrile. Firstly, they are building the library because of their anticipation that we are going to shift. If there is no pressure for them to do that, they will wait until January 1, 2000 to do the job.

Senator Herrera. There is pressure, Mr. President, because we are a signatory to the treaty. But what I am saying is,

since we are given five years, why should we implement it now when we can implement it five years from now and prevent the loss of P4 billion.

Senator Enrile. Apart from that, as it has already been stated when I answered the Lady Senator from Pampanga, we are the only country in the world using this, and we are like pariah to the other countries. We want to be in line with our trading partners.

I understand that today, to be candid or truthful about it, I think a little over 90 countries are using the Brussels definition of value as a transition and only 28 countries are now using the transaction value, if I remember the figures correctly.

Senator Herrera. That does not answer my question, Mr. President. My question is: Would it not be good that we delay this because we will lose P4 billion a year, unless we can find other sources of revenues to replenish the P4 billion?

Senator Enrile. I have already answered the Gentleman, Mr. President.

Senator Herrera. It just does not satisfy me, Mr. President. Just because 90 countries have been using the Brussels method, we should adopt it even if we lose P4 billion. We are not a rich country. We are talking here of P4 billion. In fact, if we look at the General Appropriations Act, we have even a limited amount for our poverty program.

Senator Enrile. That is correct, Mr. President. Four billion pesos will be lost to the Bureau of Customs. I would calculate that the total loss to the government will not be P4 billion but P3.4 billion. Or it will not even be P3.4 billion. Because when we lower the price of the imported goods in the domestic market, since we are lowering the valuation base by 20 percent, it is assumed that it will be reflected in the profits of the goods imported locally and we can tax that through income taxation.

When we quantify this, what we are talking here as loss may not really be P3.4 billion but something else. Besides, Mr. President, this is the clamor of the private sector in the country—the businessmen. It is also beneficial to the local consuming public because we could import chicken at a low price. There is protective tariff provided in the tariffication system. But theoretically, we will be importing goods at lesser value base. So, we assume that the price at the local market will be correspondingly lower than what it is today.

Senator Herrera. That is why at the early part of this interpellation, Mr. President, I have been insisting that we start quantifying. Because as the Gentleman has pointed out, even with that projected loss coming from tariff of P4 billion or P3.4

billion, there will be a positive impact on the industries.

Senator Enrile. That is correct, Mr. President.

Senator Herrera. That is the importance of quantifying, Mr. President, because I was expecting the Committee on Ways and Means to give us all these data in order to help us make a decision. As I have said earlier, I have no objection to this shift; in fact, I am supportive of this.

Senator Enrile. Mr. President, I think I was misunderstood. I am not yet ready to quantify because the rice is not yet cooked. It is in the process of being cooked.

Senator Herrera. In the House, Mr. President, because here in the Senate, we can already make a study on this. When we deliberate on this bill from the House once they transmit it to the Senate, we will know what to do with these bills. I think that should be the attitude in dealing with these tax measures.

Senator Enrile. I respect the Gentleman's style in dealing with tax matters. But I have my own way of approaching these problems. This is what I learned when I was studying tax policies. That is the best answer I could give.

Senator Herrera. I am not imposing, Mr. President, because I cannot impose anyway. I am only asking these questions because, as a Senator, I can decide on what to do with these measures before us if we have the quantification of the impact of all these measures on the economy and, more specifically, on the revenues of the government. While the scheme is beautiful, there is also one side of it that we have to consider and that is the income of the government. Because as we reduce the income of the government, certain services of the government will be sacrificed, and it will be the poor people who will suffer in the end.

Senator Enrile. I am curious. Isolating this issue by itself from the other measures that we have been talking for almost 20 minutes now, am I to understand, Mr. President, that as a coauthor, the Gentleman is not ready to vote for this measure?

Senator Herrera. No. We are now debating on the validity and the soundness of the provision of this bill to have an intermediate scheme. Unless, of course, I will be convinced that there is a need for that, I think that we should not have this intermediate scheme. We can proceed to the transaction value but not immediately. It is the intermediate scheme, Mr. President, that worries me because we will be losing something like, as the Gentleman said, P3.4 billion, and in any language that is a big amount.

Senator Enrile. Again, Mr. President, pardon my curios-

ity. If that is the fear, why was this bill coauthored by the distinguished Gentleman from Bohol along with the principal author, the Gentle Lady from Pampanga?

Senator Herrera. I do not have to tell the distinguished Senator that we are now in the process of refining this bill. That is why I am raising this issue of quantification. As I said, if I will be convinced that there is really a need for an intermediate scheme then, by all means, let us have an intermediate scheme.

But let us debate on this issue because the intermediate scheme has an impact on the revenues. That is precisely my point.

Senator Enrile. That is correct, Mr. President. But if we shift directly from home consumption value to transaction value, the loss will not only be P3.4 billion. It will be much more. Although we will be gaining P3.4 billion for the next several years up to the year 1999, those gains will be offset by losses that we will incur by the time we shift to transaction value. Whatever library we have, we cannot avoid the incidence of undervaluation and misdeclaration. But now, we are building the library of values with the help of the SGS in the meantime that we are using this transition period.

Senator Herrera. Does this estimate of P3.4 billion also cover the possible losses as a result of undervaluation or is this just a cost?

Senator Enrile. I guess this covers everything. I suppose so, Mr. President.

Senator Herrera. Mr. President, the Gentleman said earlier that we might incur losses if we shift from HCV to the intermediate scheme and that there will be a positive impact on the industries. What would be the Gentleman's estimate? For how long will we have to suffer, if I may use the word, from the losses?

Senator Enrile. When we shift to transaction value by the year 2000, Mr. President?

Senator Herrera. When we use this intermediate scheme.

Senator Enrile. I assume that in the first year, the estimate is P3.4 billion. I am sure that the Bureau of Customs will be able to determine from empirical data what would be the reason for these losses. Maybe they will come back to us to plug the loophole. If not, then they will do it administratively.

Senator Herrera. Assuming that this is, more or less, the

accurate amount that we will lose for the first year of the shift, does the Gentleman not think that this will be reduced to something like 50 percent or 25 percent in the second and third year?

Senator Enrile. It is possible, Mr. President. It is possible that it stays in that level; it is possible that it will go down to zero.

Senator Herrera. What particular industries does the Gentleman think will be immediately benefited by this?

I recall, Mr. President, during the first time that we discussed this in the Ninth Congress, the pharmaceutical industry was lobbying very consistently and strongly for the enactment of this bill. I wonder whether the Gentleman and the members of his Committee have already some kind of an idea what industries will immediately feel the positive effect of the shift from HCV to the intermediate scheme.

Senator Enrile. I suppose all industries, Mr. President. As I said, we will be taking out 20 percent of the present valuation base of every import in the country. That is the theoretical assumption. I cannot say that the *balun-balunan* industry or the hot dog industry will benefit. I cannot say that. My estimate is that the entire Philippine economy will be benefited piecemeal.

Senator Herrera. Mr. President, I also notice a provision here in the bill. This is the Transitory Provision, Mr. President. Will the Gentleman elucidate on this?

Senator Enrile. Is this in Section 2, Mr. President?

Senator Herrera. This is on page 11, Section 2, line 9:

Where the export value of the article cannot be ascertained thereat or where there exists a reasonable doubt as to the fairness of such value, then the export value of the article for exportation to the Philippines shall be the export value of the article in the principal export markets of the country of manufacture or origin if such country is not the country of exportation, or the export value of such article for exportation to any third country with the same stage of economic development as the Philippines.

Does this mean, Mr. President, that we need to have customs representatives to these countries? Or can our valuation library provide us the necessary information?

Senator Enrile. Can what, Mr. President?

Senator Herrera. Is it necessary?

Senator Enrile. I do not think so, Mr. President. That is why we have commercial attachés, consular officials and revenue attachés.

Senator Herrera. So part of the scheme now is that, this commercial....

Senator Enrile. The SGS will provide us the information in the meantime.

Senator Herrera. Will the commercial attaché also be utilized?

Senator Enrile. Yes, Mr. President.

Senator Herrera. Some sectors have suggested that there be a Customs representative in these countries. Is this not part of the plan?

Senator Enrile. It is not written in the law, Mr. President.

Senator Herrera. I know. But in the administrative reform of the Bureau of Customs, I recall that in the past, we used to have Customs attaché. And certain sectors have suggested that we revive the Customs attaché once we shift to this scheme. I wonder whether this is part of the plan in order to implement the provision of this bill.

Senator Enrile. I do not think so, Mr. President, that was never been mentioned as a part of this scheme of valuation. In fact, there is no indication in this measure that it will happen.

Senator Herrera. Thank you, Mr. President.

SUSPENSION OF THE SESSION

May I ask for a one-minute suspension of the session.

The President. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 7:03 p.m.

RESUMPTION OF THE SESSION

At 7:06 p.m., the session was resumed.

The President. The session is resumed.

Senator Herrera. Mr. President.

The President. Senator Herrera is recognized.

Senator Herrera. Thank you, Mr. President. It is envisioned that the shift to transaction value can be accelerated by a joint resolution of Congress. Is this correct?

Senator Enrile. The bill says so, Mr. President.

Senator Herrera. Is there a possibility that we can implement the transaction value ahead of the scheduled time in the year 2000, and on what basis?

Senator Enrile. There is always a possibility, Mr. President, when the Bureau of Customs, the Finance Department, and the economic managers decide that we are ready. That can be done only by factual assessment of the national condition, administrative condition and the attendant technological tools available then to make the decision to shift earlier.

Senator Herrera. So, the administrative capability of the Bureau of Customs, and the improvement of the economy are the factors that will have to be considered?

Senator Enrile. Yes, Mr. President. If in the judgment of the executive department and Congress the country will sufficiently benefit by an earlier shift to transaction value, then, I guess, that is a judgment that has to be made upon the assessment of the attendant facts. This judgment could not be made in a vacuum.

Senator Herrera. I suppose—because this can only be possible through a joint resolution, the assessment of these factors will be done by the executive department and Congress. We will not just leave this to the President.

Senator Enrile. The text of Section 3 is explicit. It says: "In the interest of national economy, general welfare and/or national security, the President shall, upon authority through a Joint Resolution from Congress, order the shift to transaction value as provided under Section 1 of this Act, as the basis of dutiable value of an imported article subject to an ad valorem rate of duty even before January 1, 2000."

So it will be, initially, an assessment by the Executive. That is the function of the Executive, Mr. President, to present this to the Board of Directors of the Republic of the Philippines, Inc., the Congress. The Congress will then decide whether it agrees or not with the President. If it agrees, a joint resolution will have to be passed.

Senator Herrera. Precisely. That is why I said earlier, Mr. President, that this is possible through a joint resolution as

reflected in the bill. I think we can simplify this and give this authority to the President.

Senator Enrile. Mr. President, I think it is better to have a check and balance in this.

Senator Herrera. If it is the executive department that will make an assessment of the impact on the economy, then leave this to the President to decide to accelerate the implementation of the shift to transaction value.

Senator Enrile. Personally, Mr. President, I have no quarrel with that—to delegate the power to the President. But since this involves the entire economy dealing as it is on the system of valuation of goods to be imported into the country and which will be utilized for consumption by our people, and raw material for products that will be for export and other things, I think it is prudent and wiser to involve the duly elected leaders of the country in the process of this decision.

Senator Herrera. I am just anticipating, Mr. President, that in the event there is a quarrel between Congress and the executive department, and that Congress is not supportive of the executive department, there might be a delay in the shift, although it is already ripe to implement the shift.

Senator Enrile. Mr. President, that is a possibility. But I think I will give a presumption of good faith to the patriotism of all the ladies and gentlemen who have been elected by the sovereign people to their exalted positions to do their job properly.

Senator Herrera. May I have this last question for today, Mr. President. Is it true that in the case of Japan, it has nine years to adopt the transaction value while the Philippines has only five years?

Senator Enrile. I must confess, Mr. President, I do not have that information. If the Gentleman can give me the source of the information, then I will say yes or no.

Senator Herrera. Can we verify from the Gentleman's consultants, Mr. President, whether this is a correct information? Because this is published in the *Business World*.

Senator Enrile. My understanding, Mr. President, is that Japan is one of the 28 countries now using transaction value.

Senator Herrera. Just the same, Mr. President, may we ask the Gentleman's consultants, probably tomorrow or in the succeeding days, to check on this report and inform us later.

Senator Enrile. Mr. President, they have just informed me that Japan is already using transaction value as a system of valuation for customs purposes.

Senator Herrera. If that would be the case, Mr. President, I would like to terminate my interpellation. Thank you, Mr. President.

Senator Enrile. I must confess, Mr. President, that I enjoyed the Gentleman's questions.

Senator Herrera. I must also confess, Mr. President, that I am grateful for the Gentleman's patience in answering my questions.

Senator Enrile. Thank you, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a short suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 7:14 p.m.

RESUMPTION OF THE SESSION

At 7:15 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF
S. NO. 1461

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 1461 until tomorrow.

The President. Is there any objection? [*Silence*] There being none, the motion is hereby approved.

THE JOURNAL

Senator Romulo. Mr. President, we have the *Journal* which has not yet been acted upon. I move that we dispense with the reading of the *Journal* of Session No. 69 and consider the same as approved.

The President. Is there any objection? [*Silence*] There being none, the reading of the *Journal* of the previous session is hereby dispensed with and the same is considered as approved.

Senator Romulo. Mr. President, we have the Order of Business. May I ask the Secretary to read the same.

The President. The Secretary will please read the Order of Business.

REFERENCE OF BUSINESS

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 349, entitled

RESOLUTION RECOGNIZING AND CONGRATULATING DEPARTMENT OF JUSTICE SECRETARY TEOFISTO T. GUINGONA JR. FOR HIS ELECTION AS PRESIDENT AND SUCCESSFUL HOSTING OF THE THIRTY-FIFTH SESSION OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE (AALCC)

Introduced by Senator Coseteng.

The President. Referred to the Committee on Rules.

The Secretary. Proposed Senate Resolution No. 350, entitled

RESOLUTION DIRECTING THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS AND OTHER APPROPRIATE COMMITTEES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, TO DETERMINE THE CONDITION OF STATE WITNESSES UNDER THE WITNESS PROTECTION SECURITY AND BENEFIT ACT (R.A. NO. 6981) AND TO ASSESS THE PRESENT STATUS OF THE IMPLEMENTATION OF OUR WITNESS PROTECTION PROGRAM AND ENACT MEASURES TO STRENGTHEN IT

Introduced by Senator Coseteng.

The President. Referred to the Committee on Justice and Human Rights.

COMMITTEE REPORTS

The Secretary. Committee Report No. 64, prepared and

submitted by the Committee on Foreign Relations, on Proposed Senate Resolution No. 351, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE AGREEMENT ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE STATE OF ISRAEL,

recommending its adoption without amendments.

Sponsor: Senator Mercado

The President. To the Calendar for Ordinary Business.

The Secretary. Committee Report No. 65, prepared and submitted jointly by the Committees on Health and Demography; and Finance, on Senate Bill No. 1466 with Senators Gonzales, Flavio, Coseteng and Webb as authors thereof, entitled

AN ACT PRESCRIBING MEASURES FOR THE PREVENTION AND CONTROL OF DIABETES MELLITUS IN THE PHILIPPINES, PROVIDING FOR THE CREATION OF A NATIONAL COMMISSION ON DIABETES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 881.

Sponsors: Senators Webb, Romulo and Gonzales

The President. To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders the following: Proposed Senate Resolution No. 351 under Committee Report No. 64, and Senate Bill No. 1466 under Committee Report No. 65.

The President. Is there any objection? [*Silence*] There being none, Proposed Senate Resolution No. 351 and Senate Bill No. 1466 are hereby transferred to the Calendar for Special Orders.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 7:18 p.m.

RESUMPTION OF THE SESSION

At 7:19 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1450 - The Agricultural Tariffication Act
(Continuation)

Senator Romulo. Mr. President. I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. Mr. President, may I ask that the Sponsor and Chairman of the Committee on Agriculture and Food, Senator Shahani, be recognized, with the distinguished Lady from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, to continue her interpellation.

The President. Senators Shahani and Macapagal are recognized.

Senator Macapagal. Mr. President, I would like to find out if the request of the Gentleman from Cagayan Valley for copies of certain documents has already been complied with.

Senator Romulo. Yes, Mr. President.

Senator Macapagal. So, may I now read Article IV, paragraph 3:

The General Councils are convened as appropriate to discharge the responsibilities of Disputes Settlement Body provided for in the Disputes Settlement understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deemed necessary for the fulfillment of those responsibilities.

May I know, Mr. President, whether the Dispute Settlement Body has already established its rules of procedure?

Senator Shahani. Yes, Mr. President. The Dispute Settlements Body has made its rules of procedures so that it can function.

Senator Macapagal. And do we have the copy of the Rules of Procedure with us, Mr. President?

Senator Shahani. Mr. President, on page 353 of the same volume which we are using for this discussion, there is Annex "2" entitled "Understanding on Rules of Procedure Governing the Settlement of Disputes." And here are the Rules of Procedure of the Dispute Settlement Body.

Senator Macapagal. According to this Rules of Procedure, under what circumstances does a country bring another country to dispute settlement?

Senator Shahani. Mr. President, may I be allowed to read the summary of the various stages of settling disputes in the WTO?

Senator Macapagal. Mr. President, in accordance with the rules stated by the distinguished Gentleman from Cagayan Valley, anything that must be read, must be read when everybody else has a copy. May I have a copy of what the distinguished Lady Senator is about to read? And also, may everybody please be furnished with a copy?

Senator Shahani. Mr. President, I wish we would be a little bit more reasonable with these demands. I know that we have to abide by these rules, but there is a shortage of documents.

Senator Macapagal. Mr. President, I was not the one who initiated this precedent.

Senator Shahani. Mr. President, that does not remove the fact that there has to be some consideration of the actual existing conditions of work in this Chamber.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short suspension of the session.

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 7:23 p.m.

RESUMPTION OF THE SESSION

At 7:24 p.m., the session was resumed.

The President. The session is resumed.

Senator Shahani. Mr. President, I thought I would have to simplify the process. Inasmuch as the hour is late, I thought I would read a summary of the procedures. But since we are bent on being so procedural about it, I was attempting to read a summary of Annex 2.

The President. Before the Lady Senator proceeds, may the Chair read the rule applicable to a situation like this. This is found in Section 101 of Rule XXXVII, captioned READING AND INCLUSION OF CERTAIN DOCUMENTS. It reads as follows:

THE READING AND INCLUSION of any document in the *Record of the Senate* as well as in the *Journal* may be ordered upon request of a Senator after his brief explanation of the object of his request; but if objected to, the motion shall be submitted to a vote without debate.

There is nothing in this rule that requires that when asked, then copies of the document will be furnished.

Senator Macapagal. So Senator Enrile was wrong.

The President. There was no opportunity for the Chair to rule.

SUSPENSION OF SESSION

Senator Romulo. May I ask for another short suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 7:26 p.m.

RESUMPTION OF THE SESSION

At 7:33 p.m., the session was resumed.

The President. The session is resumed. What is the pleasure of Senator Enrile?

Senator Enrile. Mr. President, I would like to state into the

record that if I made a mistake in my recollection of the Rules, I accept my mistake.

To satisfy the desire of the Lady Senator from Pampanga, whether I was in error in invoking a rule, I stood on a matter of personal privilege which is the right of every Member of this Chamber, to ask for a copy of a material that was being used in the discussion, and which material, I understood to be available in the Senate. If that is not so, then I must admit my error and I so state it in the *Record*.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. We are still debating on the tariff bill, Mr. President.

The President. Both Senators Shahani and Macapagal have the Floor.

Senator Shahani. Mr. President, before the session was suspended, we will recall that the point of discussion was the understanding on Rules and Procedures Governing the Settlement of Disputes by the Dispute Settlement Body. This is found on page 353. I have the same document which I believe Senator Macapagal also has. I was just going to read from my own notes a summary of what this understanding on the rules and procedures was in order to facilitate the discussion on this complicated issue. That was all that I was trying to do. But the text is right before the person who wishes now to interpellate me.

Senator Macapagal. Mr. President, can the distinguished Sponsor specify those portions of the text that spell out the rules that will be followed in bringing about the dispute for settlement case against the Philippines?

First, the initiation of the dispute settlement. What portion of the rules in Annex 2 can be quoted to guide us regarding the initiation of the dispute settlement? Let us begin with that.

Senator Shahani. Mr. President, any person who understands the English language will find it easy to understand.

Senator Macapagal. Mr. President, maybe I do not understand the English language but it is a very long Annex 2. May we just find a sentence, the page, the paragraph where the initiation of the dispute settlement can be pointed out?

Senator Shahani. Mr. President, this is an international agreement which has been carefully crafted. It cannot just be found in captioned form. This is, after all, part of international law.

Article 3 talks about the general provisions. And all of these preliminary statements are so important before we decide whether we do want to be subject of a case before the DSB. Article 3, Section 4 states: "Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations on this understanding and under the covered agreements."

Paragraph 7, under the same article, says: "Before bringing a case, a member shall exercise its judgment as to whether action under this procedure would be fruitful. The aim of the dispute settlement mechanism is to secure a positive solution to a dispute."

So, Mr. President, there are fairly elaborate preliminary consultations and measures to be undertaken which will not figure here. I think the message we should get under Article 3 is that all measures should be exhausted before a dispute is brought before the DSB.

Senator Macapagal. Exactly, Mr. President, that is the point I was trying to bring up. It does not mean that if we do not pass this measure on March 26, or whatever is the deadline that has been given, the very next day we lose our MFN status.

Senator Shahani. That was never said, Mr. President. We do not lose it the next day. I do not think the Sponsor ever said that.

Senator Macapagal. When do we lose it, Mr. President?

Senator Shahani. There are certain procedures here. The first stage of settling disputes is the holding of consultations between the members concerned. Any member should reply promptly within 10 days to a request for consultations and enter into consultations within 30 days from the date of the request.

Senator Macapagal. That is what is going to happen if we do not pass the bill. The worse that can happen is that consultations will be called. And what are consultations? Are they not the formal language, meaning further negotiations? Does this not mean that the party will sit down and ask us, "What is the matter, Philippines? Why can't you pass this bill?" And then we can explain that our farmers are still waiting for the tariffs to be enacted.

Senator Shahani. Mr. President, I think that it is not only agricultural products which are at stake here. If a member-state will see that we are not fulfilling our requirements in the area of agriculture, it is possible that there would be retaliation. It will not be immediate, of course. But that already opens us to a difficult position where those products which we have primarily

depended on as exports now face the possibility of being slapped higher tariffs or being taken out in other areas other than agriculture. I think this has to be understood, Mr. President. Agriculture is just one aspect of the entire GATT system.

Senator Macapagal. I am glad the distinguished Sponsor said that this is just one aspect. In fact, the tariffication or the removal of quantitative restrictions is also just one aspect. There are other aspects that we can also take up with them in consultation. For instance, there is compliance with the sanitary and phytosanitary standard commitments that have been made to us.

Senator Shahani. Mr. President, I wonder whether a country like us can afford this luxury of discussing the issue *ad infinitum* and using dilatory tactics. The issue of consulting with our farmers has already been done. I am not saying that the procedure is perfect. But nothing will be perfect under this procedure especially with a country which has traditionally neglected its agricultural sector. And no amount of consultation at this stage is going to solve the issue.

I think the important thing is, we accept the challenge of being part of the World Trade Organization; we accept the responsibilities imposed on us; we cope with the imperfections of the procedures; and without losing anymore time, we straight away implement all of those safety net measures which are in here, Mr. President. What a member-country can do to help its agricultural measures are so many in this.

If the Lady Senator would want, we can even distribute it tomorrow, Mr. President. But to delay, to be the first country to renege on the repeal of its quantitative restrictions just because we feel we have not consulted enough—I have asked the officials of the Department of Agriculture and, in fairness to them, they have done their consultations. Our delegation is ready to leave on March 26, 1996. The committee adjourns on March 28, and that is it. So, why should we go to any trouble of entering into an elaborate and legalistic procedure where we shall be spending money—\$300 for board and lodging—to send our legal experts again to Geneva just to follow up on this issue?

I think prudence dictates that if we cannot get exactly what we want now, let us work hard and see how we can, within the system, become stronger in some of these areas, Mr. President. I think it does not bode well if this is the approach we take towards the issue before us.

Senator Macapagal. Mr. President, the original deadline for lifting quantitative restrictions was July 1995. When was the bill filed to tariffy?

Senator Shahani. Mr. President, the first bill on tariffication was filed in the House of Representatives in February 1995 in the Ninth Congress.

Senator Macapagal. What about in the Tenth Congress?

Senator Shahani. In the Tenth Congress, Mr. President, the bill on tariffication was refiled in August 1995.

Senator Macapagal. So, why did we not file the bill earlier when our deadline was July? Why was it delayed until August?

Senator Shahani. Mr. President, as far as our Committee on Agriculture and Food was concerned, we went ahead and filed the bill on tariffication in August 1995.

Senator Macapagal. So, the Committee itself was already late for the deadline. Why?

Senator Shahani. Since the Ninth Congress could not act on it, and the Tenth Congress met on July 21, it had to be refiled, Mr. President.

Senator Macapagal. The bill could have been filed on June 30, 1995, Mr. President.

Senator Shahani. I do not think we were organized that well, Mr. President. And as far as this Representation is concerned, I believe we waited for the House to take the initiative.

Senator Macapagal. Why did we have to wait for the House? This is not a tax measure; this is not an appropriation measure.

Senator Shahani. It is still a tariffication measure, Mr. President.

Senator Macapagal. But there are no tariffs specified in the bill. That is the point of my objection, in fact.

Senator Shahani. Mr. President, I said earlier that the House version has the schedules of tariffs. And in our case, since we could not wait—I think the House has just finished with the interpellations and amendments—we had to do two things: We had to consult with the House very carefully but, at the same time, we also came up with our own version allowing the President to set the tariff rates.

Senator Macapagal. Mr. President, did the original House version, in fact, not contain tariff rates in the Ninth Congress and in the original version in the Tenth Congress?

Did they already contain the tariff rates?

Senator Shahani. It is possible. I have no idea about that, Mr. President, I was not the Chairperson of the Committee on Agriculture and Food. But that is beside the point.

The point is, there are rates in the present version, Mr. President. I really do not see why we are going through this interpellation. It is like playing the violin while Rome burns.

Senator Macapagal. Mr. President, what I am trying to say is that Rome is not burning because we have this procedure that the Lady Senator has just read in Article 3. In fact, it says here, as she has read in Article 4 and in Article 5, that the recommendations or rulings shall be aimed at achieving a satisfactory settlement. And that satisfactory settlement means satisfactory to both countries, and there is a procedure of consultation.

I was not talking about consultation with the farmers. I was talking about consultation within the WTO. Because if we are in default, the first step will be for some contracting parties who want to rush us to ask for consultations. And in that consultation, they will ask us what our problem is. And if they can see that we have a major problem—although I do not see what our major problem is—I think we can solve this impasse if we only have the tariffs.

Mr. President, speaking about the tariff, have we not had an executive order on tariff in July and also in December?

Senator Shahani. That is true, Mr. President.

Senator Macapagal. Why could the tariff on these agricultural products not be included in the July and the December executive orders?

Senator Shahani. The executive order does contain tariff on nonsensitive items. What we are doing now in this exercise is, we are dealing with sensitive agricultural items.

Senator Macapagal. Mr. President, when we talk about sensitive items, what we do is to delay an opening up of sensitive items to competition. But we are talking about raising tariff. So for a sensitive item, in fact, we should act ahead of time. We only delay on a sensitive item when they are to reduce tariff.

Senator Shahani. The Senate is not alone in the formulation of this bill before us. As I said, we have to wait for our Colleagues in the House of Representatives. We have to consult them. They have had a change of mind. In the beginning, they wanted the President of the Philippines to be the one to state the tariffs, then afterwards, they changed their minds.

Senator Macapagal. Mr. President, we are two separate Chambers. We can file our own version. There was no need to wait for a House version. If we knew that the deadline for tariffication was July and our version was only going to be a lifting of quantitative restrictions, we could have filed it on June 30. I still cannot find an answer that will satisfy me as to why there was a delay in the filing, a delay in the committee hearings, a delay in the committee reports. And now months after that we did not meet the deadline, the Senate is being rushed to approve this bill in only a few days' time.

Senator Shahani. Mr. President, the Senate is not being rushed. We are just replying or responding to situations which must be met. I think it would be useful to remember that before that, we had the budget hearings which were scheduled. We had several important bills. But as Chairperson of the Committee on Agriculture and Food—and this was also discussed in the LEDAC—I thought it was more prudent to wait until there was also an agreement on the schedule of the tariffs.

So I believe that we have to go back to what was done which, after all, is part of my prerogative as Chairperson of the Committee on Agriculture and Food. I find that many of the questions of the Senator from Pampanga are irrelevant to the issue before us.

Senator Macapagal. Mr. President, I do not think they are irrelevant to the issue because the sponsorship speech said that time is of the essence. The sponsorship speech said that if we do not pass this bill, we will—and the word was “will,” it was not “may,” it was not “stand to lose”—lose our MNF status. That is relevant, and I am questioning that statement because that is the statement that is the basis for this rush that we are having now.

Senator Shahani. That is not the basis, Mr. President. The basis is that the deadline for the lifting of the QRs is on March 28. If I said “will,” maybe I said it with a sense of responsibility. I think the Chamber must be alerted to the dangers of losing our MNF status. If we lose the MNF status, it means that we will be in a lesser position on trading matters before more than a hundred countries who are members of the WTO. It means that we will have to negotiate our own tariffs bilaterally with every other country.

I think the implications of facing sanctions by other members of the WTO are nothing to be sniffed at and we will have to make up our minds. Can we continue working domestically on some of the shortcomings of our agricultural sectors especially in these products where the QRs are being lifted? Or, do we postpone and get into more difficulties?

—Mr. President, I would opt for meeting our international

obligations and at the same time carry on the fight for improving our agricultural tariffs. Because, I think, to have to face this, we will have to wait, we will have to present our case, and we will have to have a battery of lawyers to go there. There is Ambassador Bautista who is already overworked because of these problems we have before the WTO.

Mr. President, is it not incumbent on us since other countries in the region have already done that? When I say it, it does not mean that we have to be like a flock of sheep to follow in a zombie-like fashion, but we should make up our minds to forestall what I foresee would be greater complications for this country. And although we may have time, although in actual language here, it sounds yes, there will be justice for every member. I am sure our Colleague from Pampanga knows—she had been with the Department of Trade before—countries do fight for survival in matters of trade, and I believe the Philippines should do the same.

Senator Macapagal. Mr. President, Article 3, No. 6, paragraph 6 says, “mutually agreed solutions to matters formally raised under the consultation and dispute settlement provisions of the covered Agreement shall be notified.”

The important phrase here is “mutually agreed solutions to matters formally raised under the consultation and dispute settlement.” In fact, this was taken up during the debate on the GATT.

The whole idea of dispute settlement under the WTO is not arbitration. It is consultation towards mutually agreed solutions. And there are so many things that we can offer in place of lifting quantitative restrictions, if we wanted to. In other parts of the agreement, we have in fact committed less than what we have actually done. We did not commit to liberalize bank entry; we did. We did not commit to liberalize foreign investments the way that we passed it on Third Reading now; we did. We did not commit to liberalize retail trade; we are doing it.

There are so many other parts of the agreement, Mr. President. In fact, just as in the Uruguay Round negotiations, we were able to credit to our commitments EO No. 470, where we had made some reductions even before the ratification. We can also show what we have done even beyond our GATT commitments.

What I am trying to say here, Mr. President, is that we are going to talk to the contracting parties. There are many things that we can show with regard to the spirit of liberalization.

On the other hand, with regard to what the farmers want and need and demand, it is also so simple. In fact, in the handout that

has been given to us, and even in the speech of the distinguished Sponsor, she points out certain safety nets. One of them is the tariffs. The other one is the provisions against unfair trade practices. Another one is on the agricultural budget. And I intend to examine whether we have provided these three matters with sufficient satisfaction to the farmers.

First, on the tariffication, Mr. President. I really cannot understand why we could not put the tariffs in place before we remove the quantitative restrictions. I cannot understand the reason for the delay. What is the reason for the delay in raising the tariffs?

They are called safety nets, so I keep thinking of the metaphor of the safety net. It is like somebody who has to walk a tightrope in a circus or in a trapeze. Of course, just in case he falls, there must be a safety net in place so that he will not fall to the ground.

By lifting the quantitative restrictions before we put the tariffs in place is like making the person walk on the tightrope first and then put the safety net later on. Are we not supposed to put the safety net first before we put the party at risk? Should we not have the tariffs in place first before we lift the quantitative restrictions?

Senator Shahani. Mr. President, I believe that I have answered what our distinguished Colleague has already brought up. I believe interpellation is a matter of clarification and not the delivery of another privilege statement.

Mr. President, before I invoke Rule 26 of the Rules of the Senate, I would like to read again Annex 2, Article 3, Paragraph 8, “Understanding on Rules and Procedures Covering the Settlement of Disputes,” and the document which was earlier referred to in which Senator Macapagal is reading. That is on page 355. It says:

In cases where there is an infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment. This means that there is normally a presumption that a breach of rules has an adverse impact on other members/parties to that covered agreement and, in such cases, it shall be up to the member against whom the complaint has been brought to rebut the charge.

So, despite all those preliminary motions which are given to all members of the WTO before any dispute is brought, there is already an infringement if we do not lift the quantitative restrictions, Mr. President. Our refusal or inability to do that will

be considered *prima facie* evidence to constitute a case of nullification or impairment.

Having said that, Mr. President, I wish to invoke Rule 26 of the Rules of the Senate. I believe I have already answered adequately the main issues on the interpellations yesterday on this bill in question.

Thank you, Mr. President.

Senator Macapagal. Mr. President.

The President. May we know the pleasure of Senator Macapagal?

Senator Macapagal. Mr. President, does this mean that I will no longer be able to continue the interpellation on other subjects like the safety nets that, according to the speech, have been provided for?

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 8:04 p.m.

RESUMPTION OF THE SESSION

At 8:05 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 1450

Senator Romulo. Mr. President, upon the advice of our Colleagues and after consultation with the Chairman of the Committee on Agriculture and Food, I move that we suspend consideration of Senate Bill No. 1450 until tomorrow.

The President. Is there any objection? [*Silence*] There being none, the motion is hereby approved.

CONFERENCE COMMITTEE ON S. NO. 1399/H. NO. 5029

(Senators Magsaysay, Roco, Osmeña and Drilon as
Members of the Senate Panel in
the Bicameral Conference Committee)

Senator Romulo. I move that the following be designated

members of the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1399 and House Bill No. 5029, Liberalizing the Foreign Investments: Senators Magsaysay, Roco, Osmeña and Drilon.

The President. Is there any objection? [*Silence*] There being none, the Senators who were mentioned in the motion are hereby designated as members of the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1399 and House Bill No. 5029.

Senator Romulo. Mr. President, the panel would be meeting tonight at the Narra Room of the Manila Hotel.

Mr. President, I have cleared with the Minority Leader and the other Members of this Chamber that we will not have session tomorrow morning, but we will start the session at three o'clock in the afternoon.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

Senator Macapagal. Before we act on the motion to adjourn, although I did not object to the composition of the Senate panel in the Conference Committee because it is not within my prerogative to object, may I just remark that I find it rather arbitrary to limit the membership to four. And because there must be more Majority members than Minority members, the choice had to be made between Senator Drilon and myself, despite the fact that we were the principal authors of the two bills that were considered and combined in the Committee Report. So I gave my place to Senator Drilon. But I would like to remark that since it was within discretion to fix the number of panel members, I felt that it was arbitrary and both of us should have been allowed to be members of the Conference Committee.

Senator Romulo. Mr. President, I make strong exception to that statement that it is arbitrary. We do it according to the Rules. There is nothing arbitrary in what we have just proposed.

The Rules is very clear, Mr. President. The President shall designate the members of the Senate panel in Conference Committee with the approval of the Senate. There is nothing arbitrary here.

Senator Macapagal. That is why I said I was not objecting, Mr. President, because if we look at the Rules, it was all right and proper. But I think that accommodation could have been made to include the two principal authors, and if there is a need to have majority in the majority of the panel, then the panel could

RECORD OF THE SENATE

WEDNESDAY, MARCH 20, 1996

OPENING OF THE SESSION

At 3:47 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 71st session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

Shall we rise and be led in prayer by Sen. Juan Ponce Enrile?

Everybody rose for the opening prayer.

PRAYER

Senator Enrile. Let us bow our heads.

We humbly bow our heads before Your holy presence, O, Lord, to offer to You all our strengths and weaknesses as a people, as we try to chart the destiny of our country towards peace and prosperity;

We sincerely implore Your wisdom that we, as the duly elected representatives of our people, can be effective instruments of Your love, Your justice, and Your peace;

Enlighten our minds and hearts, Almighty God, so that our love of country and of men can be truly reflected in our works and deeds during our borrowed terms of office;

With our human frailties, we offer You, dear Father, all the problems and sufferings of our nation and people. We know that in Your unlimited mercy and love for the Filipino people, we have found forgiveness in all our shortcomings, and You shall guide us through the proper paths so that our country can attain its lofty ideal of a society governed by the rule of law and not of men and a proud member of the community of nations.

These we pray in the name of Your Almighty Son, Jesus Christ, our Lord.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez..... Present

Senator Edgardo J. Angara Present
Senator Anna Dominique M. L. Coseteng. Present*
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent**
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam D. Santiago Present
Senator Leticia R. Shahani Present*
Senator Vicente G. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb ***
The President Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

Senator Romulo. Mr. President,

The President. The Majority Leader is recognized.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection to this motion? [Silence] There being none, the reading of the Journal of the previous session is hereby dispensed with and the same is hereby considered approved.

The Secretary will please read the Order of Business.

*Arrived after the roll call
**On account of illness
***On official mission

Thank you very much, Mr. President.

Senator Romulo. Mr. President, may I also say that in fairness to Senator Tatad, he himself has admitted that when he was Chairman, this procedure had been followed. But I agree with him that perhaps now, we should follow a different procedure in that only those agreed upon in the Committee should be considered as Committee amendments. Other amendments after that should be on the basis of individual amendments.

On that basis, Mr. President, and as stated by the Chairman of the Committee on Ways and Means, there are no more Committee amendments. We will consider the individual amendments in tomorrow's session.

With that, I move that we suspend consideration of Senate Bill No. 1461 until tomorrow.

The President. The Chair suggests that a formal motion for the closing of the period for Committee amendments be made.

Senator Romulo. Mr. President, I withdraw the motion to suspend, in the meantime. I move that we close the period of Committee amendments.

The President. Is there any objection to the motion? [*Silence*] There being none, the period of Committee amendments is hereby closed.

SUSPENSION OF CONSIDERATION OF S. NO. 1461

Senator Romulo. I move that we suspend consideration of Senate Bill No. 1461 until tomorrow.

The President. Is there any objection to the motion? [*Silence*] There being none, consideration of Committee Report No. 62 on Senate Bill No. 1461 is hereby suspended.

BILL ON SECOND READING

S. No. 1450 - Agricultural Tariffication Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Chair recognize the Sponsor

and Chairman of the Committee on Agriculture and Food, the Senate President Pro Tempore, Senator Shahani, with the distinguished Senator from Iloilo and Quezon City, Senator Santiago, to interpellate.

The President. Senators Shahani and Santiago are recognized for purposes of interpellation.

Senator Santiago. Mr. President, will the Lady yield for interpellation?

Senator Shahani. Mr. President, I shall be happy to entertain questions from one of the four Lady Senators in the Chamber.

Senator Santiago. Thank you, Mr. President. I would like to refer to Section 2, paragraph 3 of the bill which states:

To prepare the agricultural sector for global competition, the State aims to improve farm productivity by providing the necessary support services such as, but not limited to, irrigation,

My first question is narrow and specific in scope: One of the commitments of the administration to the GATT is the construction of infrastructure in rural areas. Could the Sponsor please cite specific examples of recent infrastructure construction in rural areas as a result of our commitment under the GATT?

Senator Shahani. Mr. President, I do not know how recent we would go, but certainly under the General Appropriations Act of 1995 immediately after the GATT ratification, there was already in the budget of the Department of Agriculture sizable appropriations to construct farm-to-market roads, irrigation, post-harvest facilities, and also research and training. All of these are, of course, considered infrastructure, both physical and human.

In the 1996 Budget, that amount in 1995 was more than doubled, Mr. President. Again, the emphasis is on farm-to-market roads, post-harvest facilities, training, as well as irrigation. I think the Department of Agriculture has already programmed its 1996 Budget. But I believe the program for infrastructure is something which has been given the highest priority. They match the heart of the safety nets which were instituted by Congress and subsequently by the Executive as part of our commitment to our own domestic agricultural sector, particularly the small farmers in order that we can indeed become competitive in our membership in the World Trade Organization.

Senator Santiago. Mr. President, in the light of the answer

to my question which refers to the GATT budget, presumably for 1995 and possibly even for 1996, I am constrained to refer to a document, entitled "The GATT Master Plan Budget, a Litany of Broken Promises," by Raul Montemayor, who is not only business manager of the Federation of Free Farmers Cooperatives, Incorporated, but also representative of the agricultural sector in the WTO-AFTA Advisory Commission.

On page 1 of this paper, paragraph 3, the author states:

In general, the analysis of the data available confirms initial findings that the government has basically failed to live up to its promises to extend financial support to and therefore carry out many of the crucial adjustment and competitiveness enhancement measures embodied in the GATT Master Plan. Figures show that only 44 percent of the original GATT budget for 1995 was appropriated. This half-hearted level of funding is expected to be maintained in 1996.

Before I raise the question, I will have to admit that there is no debate about GATT safety net measures which include lowering of tariffs and input, construction of more infrastructure in the rural areas, increased expenditures in research and development, provision of market information, accessibility of credit at more favorable interest rate, and formulation of less onerous tax system, among others. However, I would like to point out that only the items on lowering of input costs and formulation of less onerous tax system do not involve additional funding. All the other GATT safety net measures involve funding.

My question is: Where will the financing for these various safety net measures come from?

Senator Shahani. Mr. President, may I just refer to the earlier part of what the distinguished Representative from Iloilo and Quezon City said. The 1995 General Appropriations Act was indeed inadequate. I think those of us in the Senate were disappointed at the final outcome of what was appropriated in the 1995 General Appropriations Act. But this was corrected, as is known to all of us particularly at the LEDAC meetings, when we saw the shortcomings of the budgetary allocation before.

Mr. President, as I said, this is why we more than doubled the budget for the agricultural sector—it is unprecedented for 1996.

So, the lowering of tariffs is one way but the important thing is that, it is not just tariffication or the minimum access volumes but really in making the farmers more competitive and giving them opportunities in terms of diversification of crops,

access to credit, insurance of their crops, et cetera.

Tariffs is just one of the many dimensions in increasing the competitiveness of our farmers.

Senator Santiago. Mr. President, may I solicit the view of the Author. Is the funding for the GATT measures included in the General Appropriations Act, or are they merely realignments from previous budgetary line items?

Senator Shahani. Mr. President, in the 1996 Budget, I believe it is very obvious that these are really new appropriations which are not just mere realignments but which respond to the needs of the farmers, as seen now in the GATT safety nets and also in the implementation of the major programs of agriculture such as the Medium-Term Development Agricultural Plan, the Medium-Term Livestock Development Program, the Medium-Term Fisheries Management Development Program, the Key Commercial Crops Development Program, and the Grains Enhancement Program. These are ongoing programs, but under 1996, they have been given additional allocations.

For instance, if I may read out some figures: for basic infrastructure, that is rural roads, we have a total of P574,911,000. We still have unprogrammed amount—and maybe, this is what the Department of Agriculture is working on—of P1.5 billion. So there is a grand total of P2,074,911,000 for basic infrastructure.

For the very important Grains Production Enhancement Program or GPEP, we have a very big amount for 1996, Mr. President. This is P12,615,980,000. This includes both the programmed and the unprogrammed amounts. For irrigation—and this is a very important item—we have a grand total of both the programmed and the unprogrammed of P7.9 billion, and so forth and so on.

The present program is a continuation of the Medium-Term Development Agricultural Plan, a continuation of all of the other medium-term plans which I have just mentioned so that it is not just a realignment but a strengthening and a deepening of these medium-term programs which have already been emplaced.

Senator Santiago. In view of the response to my question, I am constrained once more to refer to the document that I have already identified as my document of reference.

My document states:

For 1996 the GATT allotment dipped drastically to P14.6 billion due to the more deliberate screening of GATT-related proposals. Of this amount, P12.4

billion went to projects that were already in existence in 1995 and, to a large extent, also in 1994. Only P2.2 billion could therefore be considered as incremental funding for new GATT-related activities in 1996.

May I have the comment of the Sponsor on this statement?

Senator Shahani. Mr. President, Mr. Montemayor is a private citizen. I mean, he is well-known to me. In fact, I am quite surprised that he came up with those views because he happens to be a consultant in my Committee. I just will have to, maybe, find out where he got those statistics.

We are in government. Any private citizen is free to criticize, but I would place more confidence in what the Department of Agriculture now has presented to us as a preliminary allocation of that P23.8 billion. That money has been allocated. It is there.

Now, how the Department of Agriculture will allocate it, of course, they have made these preliminary programs which I am sure would be further refined. Of course, that money could disappear. I mean, it is no guarantee that it has been programmed, that it is really going to reach the beneficiaries, but I would rather place my faith at this point, I would say, since we just finished the exercise in the 1996 GAA.

In the official statistics, I think it is too early in the game to say that the money has disappeared. It is not being used in the proper way. Maybe after six months, that would be the right time to take a more critical view. But the money is there. I would challenge Mr. Montemayor's figures. Since he is not here, we could do it, maybe, in a private meeting. But I think that his estimates are way off the mark, Mr. President.

Senator Santiago. Then the issues are joint. For my point, the safety net measures are not emplaced and there is no probability that they will be emplaced before we pass this bill into law. In other words, tariffication would have had opportunity to cause unquantifiable damage to the Filipino farmer for the simple reason that the safety nets that are meant to cushion its impact in the agricultural sector have not been established so far.

Let me pursue this point. One commitment of the administration is to provide credit to our farmers to make them globally competitive. The question is: Are these new loan facilities or are they the same as the ordinary loans extended for agricultural purposes?

Senator Shahani. Mr. President, I already said in previous replies to interpellations that, by tradition, this country has

neglected the agricultural sector. It is not only this government, this administration which has awakened to that fact, but it is a fact that, in comparison to other countries of Asia—Thailand, Indonesia, Malaysia—we have traditionally neglected the rural areas in favor of urban commercial development.

So, although we have had laws, the implementation of these laws has been ineffective. For instance, we are having the Agri-Agra Law being amended in our Committee on Agriculture just because there is the problem that there are no takers among the farmers to this access to credit because it is really the banks which buy up securities instead of lending their money to the small farmers.

Mr. President, indeed, there have been many sins committed in the agricultural sector. Fisheries also is one way. But I believe that this administration—and I think we can also credit Mr. Sebastian for instituting some innovation in the Department of Agriculture, the Grains Production Enhancement Program is one of them—for instance—is seeing how we can diversify our agriculture.

So when one accuses that this administration has not put in place the infrastructure, that could be partially true in the sense that it takes time, it takes years to maintain an irrigation system, Mr. President. In fact, one complaint is in this Irrigation Crisis Act. The money is really going more into the rehabilitation of our irrigation system rather than the expansion of that irrigation system.

Agriculture is a long-term process. It is subject to other forces beyond the control of man or woman—natural disasters, earthquakes, pest invasions, foot and mouth disease, et cetera. But I believe it is unfair to just make a wild accusation that nothing has been done because certainly, this very Chamber and the House of Representatives have really tried to grapple with the challenge of agriculture.

Although it might be somewhat late or it could have been done earlier, I believe that there is now a realization that the agricultural sector must be given priority. Not only the rich, the managers, or the capitalists should benefit from this importance now given to agriculture, but more important is the majority of our people who live in the rural areas—the farmers, their wives, the fisherfolks and their families, Mr. President.

Senator Santiago. I will return to the question at hand. I am referring to a particular GATT safety net measure, specifically accessibility of credit at more favorable interest rates. Our search is for an answer to the question: Is this particular safety net measure present before tariffication is established in our jurisdiction? In other words, have we made credit accessible

at more favorable interest rates?

Therefore, the question is: Do we have new loan facilities ready? Or, when we speak of accessibility of credit as a safety net, are we referring only to the same ordinary loans extended for agricultural purposes whether or not there is a GATT?

Senator Shahani. Mr. President, our Colleague from Iloilo voices a concern which is there and which I myself would get worried about because we do have institutions which have been in place for a long time and which are supposed to give credit to our farmers. For instance, the Land Bank is there. It is in place. It is the main bank which services our farmers. But still, the interest rate is high—12 percent—and that is a complaint of many farmers. The Cooperative Development Authority has been put in place. Farmers now are trained to form cooperatives. They also have access to credit. We do have the Magna Carta for Small Scale Industries which also facilitates to farmers because this includes agribusiness. There are several institutions, Mr. President, but maybe not enough to really reach the very poor.

There is in the process the setting up of Grameen-type of banks throughout the country. I believe this is already near completion. This is also being done in cooperation with the Asian Development Bank, where the poor themselves will run the bank, where there will be no collaterals, and where they hope that they will be successful as they have been successful in countries like Bangladesh. I understand that in the province of Negros Occidental there is already a Grameen-type bank.

With the anti-poverty summit which is concluding today, Mr. President, where all of the basic sectors of the marginalized, the poor and the dispossessed are meeting now at the PICC, again, the clamor is access to credit which would not demand collateral and where the interest is very low.

I believe, Mr. President, that institutions are in place. The NGOs have become more militant about this and the government is more open. But I agree that the facilities should be more widespread, more democratic, more available and accessible.

Senator Santiago. Mr. President, still on this point. My impression is that there are no new sources of funding for agricultural credit. There is no specific government agency or bank to allocate, monitor and supervise these loans to ensure effective implementation.

Will the Author care to disabuse my initial impression about the fact that there are no new sources of funding for GATT-related agricultural credit?

Senator Shahani. Mr. President, as I have said, the Land Bank is increasingly becoming innovative in its programs. Although it is there as the main bank for the farmers, it is one of the most successful institutions in government and it has a very wide outreach.

For instance, some of us in Congress—I have this 75-25 program with the Land Bank, whereby we give our CDF to the Land Bank to be used for credit and rolled over so that 25 percent of the loan is interest-free, while only 75 percent does get interest. In other words, the farmer pays only 75 percent of the loan with interest.

The cooperatives are increasingly becoming more effective. Certainly, the CDA is now in place. I feel that its program should be increased. We have the Coconut Development Authority which also gives credit to the coconut farmers. Under the Grains Production Enhancement Program, there are also new credit facilities. I am also quite sure that under the Medium-Term Fisheries Management Development Program, there are also credit facilities available to the fisherfolk.

Mr. President, if our Colleague is interested in having a detailed outline of these specific facilities, I shall be most happy to provide her, at the latest, tomorrow.

Senator Santiago. Mention has been made of Land Bank funds intended for agricultural credit that should be GATT-related. The question is: Is this Land Bank funding included in the GATT fund section of the national budget?

Senator Shahani. Mr. President, Land Bank has its own mandate to lend to farmers. Credit, after all, in other words, "cash," is something which is given directly to the farmers. Under the GATT, I do not think that the Land Bank has been given additional capital. It is the Department of Agriculture as the department in the Executive branch which is able to implement these programs.

But Land Bank is always there as a partner. In fact, one is impressed by the presence of Land Bank in many of our major towns. What is important is that Land Bank is a major partner of the Department of Agriculture, but it is the Department of Agriculture which has been given the funds.

Senator Santiago. I will move on to my next question, Mr. President. We are well aware that with the imposition of GATT conditions, time is of the essence, particularly in our country. Some of our critical agricultural products are priced exorbitantly. One of the primary reasons for this state of affairs is the combined effect of low productivity and the protection extended by the government in the past.

We have a very short time for putting the countryside in order, as well as the mechanisms for the implementation of supposedly nationwide safety net projects, such as infrastructure and market information. Yet, they are not yet in place.

My question is: What has the Department of Agriculture done to prepare local government executives for the implementation of GATT safety net projects nationwide? For example, has information been made available as to which project shall be implemented in the areas of the local government executives? Or, have the Department of Agriculture regional directors so much as given a briefing to local executives on the schedule of construction of farm-to-market roads or irrigation projects, et cetera?

Senator Shahani. Mr. President, I think that the constant emphasis on how fast and how soon should not just be seen within the context of time. One of the major problems facing our agricultural sector is the fact that devolution in the meantime has taken place. In hindsight, maybe agriculture should not have been one of those departments which should have been devolved right away because still we do need the national policy and international policy to be implemented accurately and in a sound technical way at the local level.

But what has happened is that the Department of Agriculture's writ, its mandate, goes up only up to regional level. The provincial governor now has the mandate, has the right to appoint his own provincial agricultural officer. Every local government executive, in other words, every mayor now has also the right to appoint his own agricultural officers.

So the Secretary of the Department of Agriculture in a way is like a general who has lost his foot soldiers. This is one of the difficulties in coordinating an integrated food security and agricultural policy. But I believe, despite these difficulties, major efforts are being made. I, myself, will say I am not satisfied with the way these policies are being made known to the grassroots level.

For instance, a major program like the Grains Production Enhancement Program is not really known by many farmers in the rice-producing provinces. Maybe by some, but some, for instance, do not know why they do not get certified seeds. So this can be improved.

I, myself, have gone to the regional offices. I was in Tacloban last weekend. I met with the regional director and the regional officers there. They are aware of the programs of government, but it is still a problem, Mr. President, to bring this to the local level. And quite often, a mayor will not really appoint a technician for his agricultural officer. He may appoint somebody else, maybe even a lawyer or a doctor. So it is not

very easy. Sometimes, in coastal towns, they have agricultural officers who do not know much about fishing.

But even with that present state of affairs, I believe that the Department of Agriculture is alerted now to function because it has no choice. I hope that it does read on the wall the gravity of the situation, Mr. President.

Senator Santiago. Mr. President, allow me to make a concluding remark. As former agrarian reform secretary, I stand on the proposition that for our farmers to become efficient and competitive, four things are necessary: (1) roads, (2) irrigation, (3) technology, and (4) credit. Today, on the eve of agricultural tariffication, it is my submission that roads, irrigation, technology and credit are simply not available.

Thank you very much and I thank the principal Sponsor for her time.

Senator Shahani. Mr. President, may I just again add that that the situation is improving. We are hoping that with the tools Congress has given the Department of Agriculture, it will indeed respond to the challenge so that our Colleague from Iloilo will be much happier about the state of agriculture. I hope so in the near future.

The President. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Before the next interpellation, may I ask for a short suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:12 p.m.

RESUMPTION OF THE SESSION

At 6:17 p.m., the session was resumed with the Hon. Sen. Vicente C. Sotto III presiding.

The Presiding Officer [Senator Sotto]. The session is resumed.

Senator Romulo. Mr. President, for the next interpellation, may I ask that our distinguished Colleague from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized.

The Presiding Officer [Senator Sotto]. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, in the last interpellation, our questions revolved around the claim that by the end of this month, we face the prospect of having a member-country of the WTO bring a complaint against us, and also around the claim that if we will not pass this bill, we will lose our "MFN" status. I would like now to go to the safety nets.

In the sponsorship speech, Mr. President, the distinguished Chairman of the Committee on Agriculture said, and I quote: "The authors of this proposed measure made sure that the President will impose the maximum rates allowable under our laws." Part of the point that I was making in the last interpellation was that there was really no obstacle to these rates being enacted even before we consider the bill that is now under consideration.

This morning, Mr. President, in the LEDAC, I was very happy to hear the report from the House of Representatives. I hope I heard it right. They said that the lifting of the quantitative restrictions has already passed on Second Reading but that they are considering a separate bill, which is the tariffication, and that they will pass the two bills together on Third Reading.

This is much better, Mr. President, than what we are doing here in the Senate.

I would, of course, have preferred that the tariffication was made prior to the lifting of the quantitative restrictions, but that they are being passed on Third Reading simultaneously, I suppose, would be good enough.

Now, Mr. President, I refer to this, because, since it is imminent that the House of Representatives will pass the tariffication, I would like to ask the distinguished Sponsor to give us information about the specific tariff rates that are being applied in the tariff bill that will imminently be passed in the House of Representatives, and will also be taken up in some form or other here in the Senate.

Senator Shahani. Mr. President, since what we did in the Senate was a joint hearing of the Committees on Agriculture and Ways and Means, I would like to request that the Chairman of the Committee on Ways and Means, Senator Enrile, reply to the questions concerning the schedule of tariffs.

The Presiding Officer [Senator Sotto]. The Chairman of the Committee on Ways and Means, Senator Enrile, is recognized.

Senator Enrile. Mr. President, I had occasion to meet with the Secretary of the NEDA, Secretary Habito, and then Secretary of Agriculture, Secretary Sebastian. In that meeting, the topic of tariffication came about, and it was pointed out that the tariff

levels that would be adopted by the government will take into account not just the interest of the farmers who rightly are entitled to some consideration, but equally the right of the users of certain agricultural products as raw materials to produce their products for a mission to the public and also the interest of the consuming public. That was the basic norm under which I thought they were producing the figures for tariffication.

Thereafter, Mr. President, I was handed a document which, more or less, indicated the tariff levels that would be adopted in lieu of quota restrictions on certain agricultural products, and here is the document:

Proposed Initial Tariffication Rates:

	In-Quota	Out-Quota
Live Swine	30%	60%
Live Poultry	30%	70%
Beef	30%	60%
Meat of Swine and Poultry	30%	90%
Potatoes	30%	90%
Onions & Garlic	30%	90%
Cabbages	30%	90%
Coffee	30%	90%
Corn	35%	90%
Corn substitute (no minimum access commitment and the tariffication is 30/40/50.)		
Prepared Meat	30%	50%/90%
Sugar	50%	90%

Senator Macapagal. Mr. President, that is why I wanted to see the tariffs before we address this bill because the sponsorship speech stated that the authors of this measure made sure that the President will impose the maximum rates allowable. But the rates being read by the distinguished Chairman of the Committee on Ways and Means are not the maximum rates allowable under our own commitments.

Senator Enrile. Mr. President, with due respect to the Lady Senator's opinion and desires, this matter will be addressed to the collective judgment of the people here in this Chamber. I think there are considerations other than those that would protect the growers of the country.

While I agree that we must protect the growers of the country, we must not protect them to the extent of injuring the interests of other players in our economy.

Senator Macapagal. Mr. President, although the merit of this will be discussed, and the Chairman of the Committee of Ways and Means is right, I was only quoting from the sponsorship speech to find out whether what is being promised is really

what will be delivered. Because I will quote that the authors of this proposed measure made sure that the President will impose the maximum rates allowable. This is already a commitment that has been made in the sponsorship speech. That is the number one safety net.

So what I am just trying to say is, whatever are its merits, the schedules that have just been read by the Chairman of the Committee on Ways and Means do not conform to the declaration made by the Sponsor of this bill.

Senator Enrile. What is the declaration made, Mr. President?

Senator Macapagal. I will repeat. The authors of this proposed measure made sure that the President will impose the maximum rates allowable under our law.

Senator Enrile. Allowable by whom? Allowable under what condition? Allowable under whose judgment? Allowable under what law? Allowable under whose standard? It will be allowable based on empirical circumstances that are obtained by the Executive, not by any one of us here.

Senator Macapagal. Mr. President, I think that question should be addressed to the distinguished person who made this declaration, and who is the Sponsor of this bill. May I ask the Sponsor of this bill to answer the questions posed by the Chairman of the Committee on Ways and Means.

Senator Enrile. I think the phrase is understandable enough by a literate person. That it is a rate allowable by the present circumstances.

Senator Macapagal. Mr. President, if it is so understandable, why did the Chairman of the Committee on Ways and Means ask me what it means?

Senator Enrile. Because I have no computer-type of memory, Mr. President. The Lady Senator was reading from a text, so I wanted to be sure that I understood the text.

Senator Macapagal. The best way to understand the text is to ask the author of that speech to explain the text to us.

Senator Shahani. Mr. President.

The Presiding Officer [Senator Sotto]. Senator Shahani is recognized.

SUSPENSION OF THE SESSION

Senator Shahani. Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Sotto]. The session is suspended, if there is no objection. [*There was none.*]

It was 6:29 p.m.

RESUMPTION OF THE SESSION

At 6:30 p.m., the session was resumed.

The Presiding Officer [Senator Sotto]. The session is resumed.

Senator Enrile. Mr. President, I would like to modify my position. I understand there was a new information submitted by the Executive to the Committee on Agriculture and Food through the Chairperson of that Committee under date of March 18, 1996. I have here a copy of this new information, and I understand this was distributed to the Members of this Chamber.

This is a self-explanatory document which states what the Executive intends to do.

Senator Shahani. If I may add, Mr. President. I delivered that speech already in anticipation of these rates which we just distributed to the Senate, and to which the Chairman of the Ways and Means referred to.

Senator Macapagal. Mr. President, I do not have a copy with me of what has been distributed, and I would like to examine that against our commitments, and what we are allowed under our contract with...

The Presiding Officer [Senator Sotto]. May we ask the Secretary to furnish Senator Macapagal a copy of the said document.

SUSPENSION OF THE SESSION

In the meantime, the session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 6:31 p.m.

RESUMPTION OF THE SESSION

At 6:34 p.m., the session was resumed.

The Presiding Officer [Senator Sotto]. The session is resumed. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, when I moved out of the podium to receive my copy, I noticed that we do not have a quorum anymore.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, we have a quorum. May I ask for another suspension of the session so we can ask our Colleagues to return to the session hall.

The Presiding Officer [Senator Sotto]. May we ask the Secretary to call the other Members of the Senate.

The session is suspended for a few minutes if there is no objection. [*There was none.*]

It was 6:35 p.m.

RESUMPTION OF THE SESSION

At 6:37 p.m., the session was resumed.

The Presiding Officer [Senator Sotto]. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present
- Senator Franklin M. Drilon Present
- Senator Juan Ponce Enrile Present
- Senator Marcelo B. Fernan Present
- Senator Juan M. Flavier Present
- Senator Gregorio B. Honasan Present
- Senator Gloria M. Macapagal Present
- Senator Ramon B. Magsaysay Jr. Present
- Senator Sergio R. Osmeña III Present
- Senator Ramon B. Revilla Present
- Senator Alberto G. Romulo Present
- Senator Leticia R. Shahani Present
- Senator Vicente C. Sotto III Present
- The President Present

The Presiding Officer [Senator Sotto]. With 14 Senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

Senator Romulo. Mr. President, we shall now proceed with the interpellation of Senator Macapagal.

The Presiding Officer [Senator Sotto]. Senator Macapagal is recognized to continue with her interpellation.

Senator Macapagal. Mr. President, let me express my joy at receiving this tariffication schedule. Let me also express my appreciation to the majority for considering this bill important enough for them to be present here tonight because it was very lonely last night when we were having our interpellations. I have just received this copy which I have been asking for a long time and I would like to check this against what we have bound in our annex in the final act.

Mr. President, I would like to suspend my interpellation for the moment in order to give me the chance to compare this with the maximum allowable to us under the GATT Agreement.

Senator Enrile. Mr. President, may I just state for the record that this material which was attached to a letter dated 18 March 1996 addressed to Senator Leticia R. Shahani, Chairman, Committee on Agriculture and Food of this House by Cielito F. Habito, Secretary of Socio-Economic Planning and Director General, contains the rates of duties that would be charged or attached as rates of duties for certain importable agricultural products as embodied in House Bill No. 6451, which is pending in the House, and certified as urgent by the President of the Philippines under his letter to the Speaker of the House of Representatives Jose de Venecia Jr., dated March 20, 1996.

In effect, both the Executive and the House of Representatives are almost in unity as far as the figures are concerned.

Thank you.

The Presiding Officer [Senator Sotto]. We will make that on record.

The Majority Leader is recognized. Senator Macapagal wishes to suspend her interpellation.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Sotto]. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:40 p.m.

RESUMPTION OF THE SESSION

At 6:41 p.m., the session was resumed.

RECORD OF THE SENATE

THURSDAY, MARCH 21, 1996

RESUMPTION OF THE SESSION

At 10:32 a.m., the session was resumed with the Senate President, Hon. Neptali A. Gonzales, presiding.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, there is an Additional Reference of Business. May I ask the Secretary to read it.

The President. The Secretary will read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

BILL ON FIRST READING

The Secretary. Senate Bill No. 1470, entitled

AN ACT ESTABLISHING THE MAGNA CARTA FOR COUNTRYSIDE AND BARANGAY BUSINESS ENTERPRISES (CBBEs), GRANTING EXEMPTIONS FROM ANY AND ALL GOVERNMENT RULES AND REGULATIONS AND OTHER INCENTIVES AND BENEFITS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senators Shahani and Magsaysay Jr.

The President. Referred to the Committees on Trade and Commerce; Local Government; and Ways and Means.

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 356, entitled

RESOLUTION DIRECTING THE APPROPRIATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO VIOLATIONS OF SAFETY REQUIREMENTS MANDATED BY PRESIDENTIAL DECREE NO. 1096, OTHERWISE KNOWN AS THE "THE NATIONAL BUILDING CODE"

Introduced by Senator Alvarez.

The President. Referred to the Committees on Urban Planning, Housing and Resettlement; and Local Government.

The Secretary. Proposed Senate Resolution No. 357, entitled

RESOLUTION URGING THE EXECUTIVE BRANCH THROUGH THE DEPARTMENT OF FOREIGN AFFAIRS AND THE DEPARTMENT OF LABOR AND EMPLOYMENT TO MAKE THE APPROPRIATE REPRESENTATION WITH THE UNITED STATES GOVERNMENT FOR THE EXTENSION OF THE U.S. IMMIGRATION NURSING RELIEF ACT OF 1989

Introduced by Senators Angara, Macapagal, Herrera, Tatad, Fernan, and Drilon.

The President. Referred to the Committees on Foreign Relations; and Labor, Employment and Human Resources Development.

The Secretary. Proposed Senate Resolution No. 358, entitled

RESOLUTION DIRECTING THE COMMITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND OTHER APPROPRIATE COMMITTEES, TO REVIEW AND ASSESS, IN AID OF LEGISLATION, THE IMPLEMENTATION OF REPUBLIC ACT NO. 7323 TO DETERMINE WHETHER OR NOT THE POLICY AND THE PURPOSE OF THE LAW HAS BEEN OR IS BEING CARRIED OUT AND IMPLEMENTED, AND TO RECOMMEND APPROPRIATE LEGISLATIVE MEASURES

Introduced by Senator Coseteng.

The President. Referred to the Committee on Labor, Employment and Human Resources Development.

COMMITTEE REPORTS

The Secretary. Committee Report No. 66, prepared and submitted jointly by the Committees on Health and Demography; and Finance on Senate Bill No. 1471 with Senators Flavier, Mercado, Romulo, Honasan, and Webb as authors thereof, entitled

AN ACT CREATING THE TRADITIONAL AND

Senator Mercado. We agree, Mr. President, and we thank Senator Tatad whose eagle eyes and editorial skills are very valuable in going through these measures. We accept the amendment.

The President. Are there any objections? [*Silence*] There being none, and the same has been accepted by the sponsor, the amendment is approved.

Senator Romulo. Mr. President, I move to close the period of individual amendments.

The President. Are there any objections? [*Silence*] There being none, the period of individual amendments is hereby closed.

APPROVAL OF P. S. RES. NO. 351 ON SECOND READING

Senator Romulo. Mr. President, I move that we vote and approve Proposed Senate Resolution No. 351 on Second Reading.

The President. Are there any objections? [*Silence*] There being none, Proposed Senate Resolution No. 351 as embodied in Committee Report No. 64 is hereby approved on Second Reading.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, before we resume consideration of the Agriculture Tariffication Act, may I ask for a short suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 12:49 p.m.

RESUMPTION OF THE SESSION

At 12:51 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING S. No. 1450—Agricultural Tariffication Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. May I ask that the distinguished Chairman and Sponsor of the bill, Senator Shahani, be recognized.

The President. Senator Shahani is hereby recognized.

Senator Romulo. Mr. President, we have already undergone the period of interpellations so that we are now going to propose the closing of the period of debate. We have discussed this with the Minority Leader, Senator Angara.

The President. Is there any objection to the motion? [*Silence*] There being none, the motion is approved. The periods of sponsorship, debate and interpellations are hereby closed.

Senator Romulo. Mr. President, there are no Committee amendments, so I move to close the period of Committee amendments.

The President. The period of Committee amendments is hereby closed.

MOTION OF SENATOR ROMULO (Submission of Amendments to Joint Sponsor Committees Not Later Than Monday)

Senator Romulo. Mr. President, during the break, we have discussed with the Sponsor, Senator Shahani, and also Senator Enrile with the Minority Leader, and we have agreed that in the same manner and formula that we adopted in the case of the HCV bill, we will propose that all the individual amendments be submitted to the Chairperson of the Committee not later than Monday so that those proposed individual amendments can be considered and included in the bill before we act and approve this bill on Second Reading on Monday.

So I move, Mr. President, that the individual amendments in written form be submitted to the Chairman of the Committee on Agriculture and Food and/or the Chairman of the Committee on Ways and Means, the joint sponsors of this bill, not later than Monday.

The President. Is there any objection to this motion?

Senator Shahani. Mr. President.

The President. The Senate President Pro Tempore is recognized.

Senator Shahani. May I also add, Mr. President, that if there are other amendments, copies of these amendments be also

distributed to the Members of the Chamber in order to facilitate their discussion because these might be technical in nature.

Senator Romulo. Mr. President, may we ask the Committee Secretaries that once they get these proposed individual amendments not later than Monday that they ask the Secretariat to duplicate or fax or xerox these proposed individual amendments so that when we resume session at four o'clock on Monday afternoon, these proposed individual amendments are available to each of the Senators.

The President. Does the motion contemplate a situation that the committee is authorized to act upon these individual amendments?

Senator Romulo. I so move, Mr. President, that the motion include the authority for the Committee to act on these individual amendments.

The President. Is there any objection to the motion, as amended? [*Silence*] There being none, the motion is approved.

Senator Romulo. I, therefore, move that we close the period of individual amendments.

The President. Is there any objection to this motion? [*Silence*] There being none, the motion to close the period of individual amendments is hereby approved.

SUSPENSION OF CONSIDERATION OF S. NO. 1450

Senator Romulo. Mr. President, in the meantime, I ask that we suspend consideration of Senate Bill No. 1450.

The President. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 1450 is hereby suspended.

Senator Romulo. Mr. President, we shall consider and act on Second Reading on the Agricultural Tariffication Act and the Home Consumption Value Bill on Monday.

We have no more matters on the Agenda for today. We now come to the Privilege Hour. Senator Mercado and Senator Coseteng made reservations to deliver their respective privilege speeches during the Privilege Hour. Senator Mercado asked this Representation that Senator Coseteng be recognized first to deliver her privilege speech.

The President. For the first half of the Privilege Hour, Senator Coseteng is hereby recognized.

PRIVILEGE SPEECH OF SENATOR COSETENG (Illegal Gambling)

Senator Coseteng. Thank you, Mr. President.

Mr. President and honorable Colleagues: Sometime late last year the issue of illegal gambling, particularly *jueteng*, became the subject of investigations. While the House of Representatives and the Department of Justice conducted their separate inquiries and probes into this illegal numbers game, the Senate and its Members, except for the hearings conducted by the Blue Ribbon Committee, remained silent or distanced from the issue. For a while, at the height of the controversy, because of public awareness and outrage and a vigilant media, *jueteng* operations were stopped. Operations were stopped not because of an actual full government crackdown that resulted in the eventual arrests of the gambling operators, but because the gambling lords stopped operations voluntarily.

This, however, was not the first time the issue of illegal gambling and *jueteng* drew national attention. The issue of *jueteng* has been raised and debated many other times in the past. Solutions have been suggested ranging from the righteous to the resigned. While others issued condemnations and urged government and its police agencies to go after the operators, still others proposed its legalization.

But despite all these proposals, investigations, and debates, what should concern and alarm us all is the fact that *jueteng* operations have once again commenced in earnest in several provinces mainly because of government's indecisiveness, or because many of these *jueteng* operators, as they have proclaimed, exercise a certain degree of control over government through its officials. Some *jueteng* operators have even been quoted as saying that they were bigger than the International Monetary Fund, or that "kayang-kaya o hawak nila sila o malakas sila kay" such and such a politician or police officer.

Mr. President, our Majority Leader, in a speech last February 9 before the KilosBayan Forum had also noted this reality. I would like to quote, some excerpts from that speech of Senator Romulo:

It is outrageous that in the last election, candidates for public offices, especially high public offices, see nothing wrong in accepting money from *jueteng* and other vice lords. In fact, morals have so hit the bottom that these candidates having vice lords as their campaign managers and financiers are as normal to them as enlisting NGOs to their campaign apparatus.

Senator Romulo continues to say that "Unless we have public financing, the coming 1998 elections will be decided on

RECORD OF THE SENATE

MONDAY, MARCH 25, 1996

OPENING OF THE SESSION

At 4:16 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 72nd session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Marcelo B. Fernan. After which the Senate Choir will lead us in the singing of the Philippine National Anthem.

Everybody rose for the opening prayer.

PRAYER

Senator Fernan.

Lord Almighty, Fountain of all Wisdom, bless us once more as we gather in Your presence, seeking the light of Your Guidance for all our labors.

There is so much we need to do, O Lord, for the people we are sworn to serve, yet so little time to do all.

Grant to us the gift of discernment, so that, like separating chaff from the grain, we may quickly see and understand those tasks and concerns which are of utmost importance, urgency and meaning to the needs and aspirations of the greater number of the Filipino people.

Help us to use every moment fruitfully, keenly aware of the truth that as the people's servants, we have neither the right nor the privilege to make them wait while we savor the false security of believing that there is time enough to do what needs be done.

Infuse us with the spirit of humility and courage that we may transcend the boundaries of our persuasions and political brotherhoods, to embrace all our colleagues as equal partners in a common labor to seek only the greater good for all our people.

And above all, bless us with the gift of purposive persistence to use the law and the legislative processes as enduring instruments to achieve social peace, social justice and social growth.

Cleanse us of selfishness and pride, O Lord so that we may see more clearly how You have brought us here, and why. And in discerning Your will, help us to obey it faithfully and unselfishly.

We ask these, O Lord, confident in Your memory, with praise in our hearts and eternal gratitude to Your goodness.

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the National Anthem.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may we ask for a short suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 4:20 p.m.

RESUMPTION OF THE SESSION

At 4:21 p.m., the session is resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M. L. Coseteng	Present*
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present*
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present
Senator Ernesto M. Maceda	Absent**
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio R. Osmeña III	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present

* Arrived after the roll call

** On account of illness

The President. In last Thursday's session, when the Committee was authorized to receive the individual amendments in writing not later than 12:00 noon, it was likewise given by this body the authority to accept and approve or to reject any such individual amendment.

Senator Romulo. This is in accord with previous precedents.

Mr. President, may I ask the Secretary to read only the title of the bill.

The Secretary. Senate Bill No. 1461, entitled

AN ACT CHANGING THE BASIS OF DUTIABLE VALUE OF IMPORTED ARTICLES SUBJECT TO AN AD VALOREM RATE OF DUTY FROM HOME CONSUMPTION VALUE (HCV) TO TRANSACTION VALUE (TV) AMENDING FOR THE PURPOSE SECTION 201 OF TITLE II PART I OF PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 19

- | | |
|-------------------|-----------------|
| Senator Alvarez | Senator Mercado |
| Senator Angara | Senator Revilla |
| Senator Coseteng | Senator Roco |
| Senator Drilon | Senator Romulo |
| Senator Enrile | Senator Shahani |
| Senator Fernan | Senator Sotto |
| Senator Flaviera | Senator Tatad |
| Senator Herrera | Senator Webb |
| Senator Honasan | The President |
| Senator Magsaysay | |

NO - 0

ABSTENTION - 0

RESULT OF THE VOTING

The President. With 19 affirmative votes, no negative vote, and no abstention, Senate Bill No. 1461 is approved on Third Reading.

Senator Romulo. Mr. President, the composition of the Senate panel will be proposed later.

BILL ON SECOND READING
S. No. 1450—Agricultural Tariffication Act
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450, as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. May I ask that the distinguished Sponsor and Chairman of the Committee on Agriculture and Food, Senator Shahani, be recognized.

The President. Senator Shahani, the Senate President Pro Tempore and Chairman of the Committee on Agriculture and Food, is recognized.

Senator Shahani. Thank you, Mr. President. It will be recalled that in our meeting last Thursday, there were certain procedures which the Chamber adopted concerning the consideration of this bill before us. I believe it would be useful for the Majority Leader to make us aware of what were the decisions in order to facilitate the discussion on this important bill.

Senator Romulo. Mr. President, in last Thursday's meeting, the same formula as in the Home Consumption Value Bill was adopted, and therefore the period of amendments, including the individual amendments, was closed. However, I understand that the Senate President Pro Tempore, as Chairman of the Committee on Agriculture and Food, has discussed the matter with the Minority Leader. The Senate President Pro Tempore has asked me that we should move to reconsider the closing of the period of individual amendments. This has been discussed between Senators Shahani and Angara.

MOTION OF SENATOR ROMULO
(Reconsideration of the Closing of the
Period of Individual Amendments)

Therefore, Mr. President, I move that we reconsider the closing of the period of individual amendments.

The President. Is there any objection? [Silence] There being none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short

suspension of the session.

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 6:11 p.m.

RESUMPTION OF THE SESSION

At 6:29 p.m., the session was resumed.

The President. The session is resumed. May the Chair know the parliamentary status?

Senator Romulo. Mr. President, last Thursday, we closed the period of individual amendments as agreed upon with all our Colleagues. But this afternoon, with the agreement of both the Sponsor and the Minority Leader, we have reconsidered the closure of the period of individual amendments.

May I ask that the Sponsor of the bill state the individual amendments being proposed, if there are any.

The President. Senator Shahani is recognized.

Senator Shahani. Thank you, Mr. President. I have received amendments from Senators Angara and Flavier. As the main author and sponsor of this bill, I have also proposed certain amendments.

The text before us is an amended version of Senate Bill No. 1450, which contains the individual amendments as they have now been accepted by the Sponsor, as the President had proposed last Thursday and was accepted by the Chamber.

On page 1, line 11, with the sentence beginning "It shall therefore be the policy of the State" up to line 6, ending with the word "regime", delete the same and in lieu thereof, substitute the following sentence: IT SHALL THEREFORE BE THE POLICY OF THE STATE TO ADOPT THE USE OF TARIFFS IN LIEU OF NONTARIFF IMPORT RESTRICTIONS TO PROTECT LOCAL PRODUCERS OF AGRICULTURAL PRODUCTS EXCEPT IN THE CASE OF RICE WHICH WILL CONTINUE TO HAVE QUANTITATIVE IMPORT RESTRICTIONS. That is the first amendment.

The President. May the Chair know the pleasure of Senator Tatad?

Senator Tatad. Mr. President, I wonder if the distinguished Sponsor would be receptive to a proposed amendment to that amendment.

Senator Shahani. I would be happy to hear that proposal, Mr. President.

TATAD AMENDMENTS

Senator Tatad. I would propose the deletion of the phrase "It shall therefore be the policy of", and in lieu thereof, I would propose the insertion of the words PURSUANT THERETO. And then, after the word "State", I would propose the deletion of the phrase "to adopt the use of" and in lieu thereof, I would like to propose the insertion of the words SHALL IMPOSE. So that the sentence will read: "PURSUANT THERETO, the State SHALL IMPOSE tariffs in lieu of nontariff import restrictions to protect local producers of agricultural products except in the case of rice which will continue to have quantitative import restrictions".

Senator Shahani. Mr. President, I believe the proposal improves the language of the amendment. I shall be happy to accept it.

Senator Tatad. Thank you, Mr. President.

The President. If the Chair recalls the events correctly, during the last meeting, the Committee was empowered to accept the individual amendments. So, is the Sponsor contemplating to submit these individual amendments to the Body when the power has already been delegated to it?

Senator Shahani. No, Mr. President.

The President. Or is the Senator merely notifying the Members of the Body?

Senator Shahani. I am merely notifying because some of our Colleagues were not in the Chamber last Thursday and I believe there might be some Members who would like to propose amendments to the amendments, Mr. President.

Yes, I do accept that amendment to the amendment which has been incorporated in the present text, Mr. President.

Senator Tatad. Thank you very much.

Mr. President, just a general statement. I am aware of the agreement last week but I did not anticipate that in this particular bill, I would be proposing very substantial amendments. For instance, in Section 6, I would propose the insertion of the tariff rates and that is rather voluminous. We were not able to finish just the reproduction of the rates. In any case, we will come to that later, Mr. President.

On page 1, with the indulgence of the distinguished Spon-

sor, from lines 4 to 6, I would propose the deletion of the sentence that begins with the word "Non-tariff" and ends with the word "business." This sentence opens up a debate which may not be necessary. After all, we have stated that the state policy is to tariff.

Senator Shahani. I take it that our Colleague from Catanduanes wishes to delete the sentence in line 4 beginning with the words "Non-tariff restrictions" up to the end of the sentence, the word "business"?

Senator Tatad. Yes, Mr. President.

Senator Shahani. It is accepted, Mr. President.

The President. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Tatad. On page 2, Mr. President, lines 3 and 4, I propose the deletion of the word "prepare" between the words "to" and "the". In lieu thereof, I propose to insert the word "HELP". The same line between the words "sector" and "for", I propose the deletion of the words "for global competition" and in lieu thereof, I propose to insert the words "COMPETE GLOBALLY." On the same line after the word "State", I propose the deletion of the words "aims to improve" and in lieu thereof, the insertion of the words SHALL SEEK TO RAISE; and in line 4 between the words "productivity" and "by", I propose the insertion of the word LEVELS.

So that the sentence will read: To HELP the agricultural sector COMPETE GLOBALLY, the State SHALL SEEK TO RAISE farm productivity LEVELS by providing the necessary services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension, other market infrastructure and market information.

The reason for this, Mr. President, is that in the course of the interpellation, I raised the point if we are simply trying to prepare the agricultural sector at this point to compete globally, it is rather too late. I believe that it should not be to prepare but really to help the agricultural sector compete globally.

Senator Shahani. It is accepted, Mr. President.

The President. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Tatad. Thank you very much, Mr. President.

On Section 5, this is an Amendment to Presidential Decree

No. 4, as amended, otherwise known as the National Grains Authority Act, I propose that we quote the original provision and insert the amendments we would like to put in. But this would require an amendment by substitution. Therefore, it would require a written amendment. This is now being prepared for the distinguished Sponsor. But if the Sponsor is receptive to that idea, then we would proceed with it.

Senator Shahani. I would rather see the paragraph in writing to decide whether I would accept it or not.

Senator Tatad. Because we are amending a particular law, I believe we should put in the section that is being amended. That might facilitate our work better.

Senator Shahani. Mr. President, does this mean the reproduction of Section 6 of Presidential Decree No. 4? Is this what is being asked for, Mr. President?

Senator Tatad. Yes, Section 6, paragraph a, subparagraph 12 of Presidential Decree No. 4, as amended, otherwise known as the National Grains Authority Act. Then, we reproduce this Section and we put in the amendments that we would like to introduce. I would like to consult with higher authority on this, whether....

Senator Shahani. Yes, Mr. President. I remember that during the interpellation period, this is one of the suggestions which was made and, in the light thereof, I accepted that amendment. It is the reproduction of Section 6 of PD No. 4.

Senator Tatad. Just to facilitate our work, Mr. President, may we inquire from the distinguished Sponsor if she would be receptive to putting in the bound rates on Section 6?

Senator Shahani. No, Mr. President. I think we have already notified this Chamber on what could be proposed by the President. This was circulated, and I am very concerned about the time which is now going on very rapidly. I believe that the best place to do this now is in the Bicameral Committee, Mr. President.

Senator Tatad. Because the House version contains the rates, if we are agreed on those rates, we can, in fact, adopt the House proposal in our own bill. That requires a little, not too much time, just a little time, for the technical experts to study whether the House rates correspond with our commitments under the WTO.

Senator Shahani. I suggest that the Chairman of the Committee on Ways and Means reply to that, Mr. President.

The President. Yes. Senator Enrile, with the permission

of the Sponsor as well as Senator Tatad, is recognized.

Senator Enrile. Mr. President, while it is true that revenue bills, including tariff bills, must emanate from the House, I would like to believe that the Senate should not give up its prerogative to amend those measures, when in its sound judgment, there is need to amend them. I think it is the responsibility of this Chamber, being the partner of the Executive in the making of treaties, and being the arm of Congress to ratify treaties concluded by the Executive, that the provision of those treaties be not violated. I believe that we should look into the tariff rates prepared by the House and check them against what we have committed under the GATT-WTO treaties so that we will not intrude into our commitments under those treaties.

Senator Tatad. That is precisely my proposal, Mr. President. We would be facilitating the work of the Bicameral Conference Committee if at this stage we could do what our distinguished Chairman of the Committee on Ways and Means has just stated, and include in our own bill the out-quota rates and the in-quota rates pursuant to our WTO commitments.

Senator Enrile. Right now, Mr. President, I think there is a problem of mechanics because we are lifting the quota restrictions that we have in place under different statutes and at the same time, suggest that—this being a measure to adjust tariff rates which we normally delegate to the President under the flexible tariff clause—this ought to be left to the Executive, because this is actually done by the departments assigned to handle our world trade relationship and commitments.

I do not know whether we can really do what is being suggested in just a single measure, considering that in the House, they have divided these two aspects of this legislative proposal in view of their perception that these are two subjects that must be treated separately.

Senator Tatad. Mr. President, if we have a deadline to meet, we obviously cannot grant ourselves a unilateral grace period; we have to meet that deadline. And I believe the best way to meet that deadline is to look at the commitments we made under WTO. I believe these are spelled out in the phase down of reductions of tariff bindings under the particular schedule for sensitive agricultural products as far as the out-quota rates are concerned. For instance, the documents, I believe, exist. The Department of Agriculture should be able to assist us on this right now, if they are around.

SUSPENSION OF THE SESSION

Senator Enrile. May I ask for a one-minute suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. *{There was none.}*

It was 6:47 p.m.

RESUMPTION OF THE SESSION

At 6:50 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, Senators Shahani and Tatad are on the Floor for the individual amendments.

Senator Shahani. Mr. President, I have consulted with our Colleague from Catanduanes and, of course, also with Senator Enrile, and I have informed them that it will not be possible for me to accept the amendment of Senator Tatad, that we include in this bill of the Senate the rates of the tariffs which we are proposing.

I believe we are racing against time, and I feel that at the Bicameral Conference Committee which will be meeting after this session, we can take into account the concerns of the Conscience Bloc.

Senator Tatad. Mr. President, with the assurance of the distinguished Sponsor that the Majority will be very receptive to putting in the rates at the Bicameral Conference Committee, I will not pursue my proposed amendment.

Senator Shahani. May I just make a correction, Mr. President. I did not say we will be very receptive to accepting the rates, but we will certainly consider whatever proposals are made at the Bicameral Conference Committee.

Thank you, Mr. President.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

ROCO AMENDMENT

Senator Roco. With the consent and approval of the Chairperson, may I propose, in addition to line 20, page 4, at the end of this paragraph, to add a final proviso which reads:

PROVIDED, FINALLY, THAT IN CASES OF UNUSUAL IMPORT SURGES AS A CONSEQUENCE OF TARIFFICATION, THE PRESIDENT MAY FIX THE TARIFF OF

AGRICULTURAL PRODUCTS IN ACCORDANCE WITH THE SPECIAL SAFEGUARDS ALLOWED UNDER THE AGREEMENT ON AGRICULTURE CONTAINED IN THE URUGUAY ROUND FINAL ACT.

Just a very brief explanation, Mr. President. It is recognized already in the treaty. But in these unusual circumstances, the President can then impose above and beyond the 10 percent limit of the Tariff Code a 33 percent additional tariff. It gives flexibility to the President for giving protection in the event there are unusual import surges.

Senator Shahani. It is accepted, Mr. President.

The President. This proposed amendment will be on page 4, line 20, as the final proviso.

Senator Roco. Yes, Mr. President. After the clause "That the phase down of the applied rates shall be consistent with our tariffs binding commitments". That refers to Volume 17, with all these numbers.

In Volume 17, there are special safeguards. We are introducing just as an addition to expressly recognize that the President is authorized by Congress to exercise powers under the special safeguards provision in the Agreement on Agriculture. It is, I think, referred to as Article V, the Special Safeguard provisions.

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. May we ask one question of the Sponsor of the proposed amendment. What would constitute an import surge in this case? What would be the base period we would be using and what percentage of imports would constitute a surge?

Senator Roco. I leave that, Mr. President, to whatever meaning is being attached to it under the Treaty itself. I have no specific notions on what will it constitute. I am made to understand it has a fixed meaning under the Treaty. But it is a very useful thing, Mr. President. It is covered by Article 5, Part III of the Agreement on Agriculture.

Senator Tatad. I think that explanation is sufficient, Mr. President. Thank you very much.

Senator Roco. Thank you, Mr. President.

The President. This is subject to style.

Senator Shahani. Yes. The amendment of Senator Roco is accepted by this Representation, Mr. President.

The President. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Romulo. There are no other individual amendments, Mr. President, I, therefore, move to close the period of individual amendments.

The President. Is there any objection to this motion? [Silence] There being none, the period for individual amendments is hereby closed.

APPROVAL OF S. NO. 1450 ON SECOND READING, AS AMENDED

Senator Romulo. Mr. President, I move that we vote on Senate Bill No. 1450, as amended, on Second Reading.

The President. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, please say *Aye*. [Several Senators: *Aye*] As many as are against, please say *Nay*. [Silence]

Senate Bill No. 1450, as amended, is approved on Second Reading.

Senator Romulo. Mr. President, this bill has been certified by the President. May I ask the Secretary to read the Presidential certification.

The President. The Secretary may do so.

The Acting Secretary [Atty. Raval].

March 13, 1996

Hon. Neptali A. Gonzales
Senate President
Senate of the Philippines
Room 407, Executive House
P. Burgos St., Manila

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QR's) ON AGRICULTURAL

PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES,

to meet a public emergency consisting of the need to make the country's agricultural sector efficient and globally competitive, and to honor its commitments as a member of the World Trade Organization (WTO).

Best regards.

(Sgd) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Constitution Hills, Quezon City

Senator Romulo. Mr. President, pursuant to the presidential certification...

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. I was trying to follow the text of the certification. May we ask that it be read once more. I was just trying to make sure that it conforms to the constitutional provision as reflected in our Rules.

The Acting Secretary [Atty. Raval].

March 13, 1996

Hon. Neptali A. Gonzales
Senate President
Senate of the Philippines
Room 407, Executive House
P. Burgos St., Manila

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ((QR's) EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND,

AND FOR OTHER PURPOSES,

to meet a public emergency consisting of the need to make the country's agricultural sector efficient and globally competitive, and to honor its commitments as a member of the World Trade Organization (WTO).

Best regards.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Constitution Hills, Quezon City

Senator Tatad. Thank you very much, Mr. President.

BILL ON THIRD READING
S. No. 1450 - Agricultural Tariffication Act

Senator Romulo. Mr. President, pursuant to the Presidential Certification, I move that we vote on Third Reading on Senate Bill No. 1450. Printed copies of the bill have been distributed to all the Members of the Senate.

The President. Voting on Third Reading on Senate Bill No. 1450 is now in order.

The Secretary will please read the title of the bill only, if there is no objection. [There was none.]

The Secretary. Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QRs) ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 13

Senator Alvarez
Senator Enrile
Senator Flavier

Senator Honasan
Senator Magsaysay
Senator Mercado

Senator Osmeña
Senator Revilla
Senator Roco*
Senator Romulo

Senator Shahani
Senator Sotto
The President

NO - 3

Senator Angara*
Senator Fernan *
Senator Tatad*

ABSTENTION - 0

RESULT OF THE VOTING

The President. With 13 affirmative votes, 3 negative votes, and no abstention, Senate Bill No. 1450 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR ANGARA

Senator Angara. Mr. President, I am a loyal supporter of free trade and, as the *Record* would show, we organized and mobilized support for the ratification of the GATT. But in this instance, I regret I have to vote *No*, not because I am against agricultural tariffication, but simply for the reason that we are lifting the one protection we have given to our farmers through these quantitative restrictions embodied in several laws. And yet, we have not delivered on our pledge to them when we ratified the GATT that we will weave safety nets around them so that when full liberalization comes, they will not be rendered helpless and unprotected.

Unfortunately, Mr. President, the GATTFund that we voted for in 1995 was not even fully released to them. The sad fact is that part of the proceeds of the Minimum Access Fund generated in 1995 was even diverted to the extent of P100 million to other purposes rather than helping our agricultural farmers.

We have yet to put in place some of the remedial measures that the farmers need in case of import surge, for instance, which I can say at this moment will certainly come once the quantitative restrictions shall have been lifted and this law comes into effect.

We have not amended the Tariff and Customs Code to allow us to be able to raise a surcharge on tariff up to 30 percent of the existing tariff on agriculture in case of agricultural surges. That one tool or weapon to protect farmers is not even in place in our

* With explanation of vote

laws, and yet we are here removing the protection that our municipal laws extend to our farmers ahead of the safety nets we promised them.

Mr. President, I regret very much to have to vote against this agricultural tariffication. To repeat, it is not because I am against liberalization of trade but because our own government has not extended the safety nets that we promised our farmers and more sadly, the funding that we wanted to give them in 1995 has not been fully extended to them.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR FERNAN

Senator Fernan. Mr. President, for the reason that the safety nets are not in place, I would like to register a negative vote.

EXPLANATION OF VOTE OF SENATOR ROCO

Senator Roco. Mr. President, may we also put some things on record to show our support for the Committee Report.

Number one, Mr. President, it is not altogether totally accurate to say that when we approve this tariffication, there is a loss of protection to the goods.

Under the Import Liberalization Law which we approved, I think, in 1988, we actually lowered the tariff rates. Under this bill, when we approve it on tariffication, we actually increase the tariff rates on almost all of them to 100 percent instead of the present 30 percent. So, in terms of tariff, there is really greater protection because this tariffication bill increases and allows us to increase the tariff rates already imposed by our Import Liberalization Bill.

Number two, Mr. President. We have been told—and we wish to register our opinion on the matter—that we, in this Chamber, have liberalized many other facets that are not covered by the Uruguay Round-GATT-World Trade Organization Agreement. And that is correct. We liberalized the banks, we liberalized other factors, and therefore, it can be made an argument when, or if we are sued, we can say “But, look, we have the following bonus points in our favor.”

But, Mr. President, we forget altogether Section 8, Article III, Annex 2 of the final act of the Uruguay Round. The rule ends with a stress, “It is understood that complaints and counter-complaints in regard to distinct matters should not be linked.”

In other words, when we are being told, “Have you complied

Like all those who support the WTO Agreement and our ratification of that Agreement, I was hoping that the WTO Agreement would, in fact, help our agriculture, among others. It will be recalled that from the very beginning of GATT, agriculture remained outside the purview of the rounds. It was only in the Uruguay Round that agriculture and textiles finally came in. These were the two sectors not previously covered by the previous rounds. They finally came in in the Uruguay Round.

As far as agriculture is concerned, this went through a very tedious and very difficult process. The Europeans were not convinced that subsidies should be reduced; the Americans were proposing a zero-zero scheme, but this was not at all considered by the Europeans.

So it took the intervention of the 14 member-Cairns Group. This was the group that met in Cairns, Australia, which included the Philippines. It was this group that threatened to walk out of the negotiations in Brussels in 1990, if the Europeans and the Americans could not compose their differences. It was this threatened walk-out that, in fact, ended what has been called the dialogue of the death on the agricultural issue. So I agreed on tariffication of restrictions on agricultural products. We agreed on removing subsidies in order to even up the chances of all those competing in the export agricultural matters.

Mr. President, we premised our ratification of the WTO Agreement on the understanding that we would institute all the safety nets to help our farmers.

What is the score today? Our agriculture is dying, if it is not dead. Textile will also die. The two sectors that did not come in during all the previous rounds until Uruguay are dying, if not dead.

We have a commitment to tariffy. I should like to be able to support that commitment under the WTO Agreement. Before we do so, it is important, Mr. President, that we look at the record of the more powerful countries whose leadership we are supposed to follow in implementing their commitments under the WTO.

What is that record? Let us look at the United States of America and the record of Western Europe. They have been backloading on their commitment to reduce the tariffs. They have been given six years to reduce by 36 percent their tariffs on any number of commodities on the condition that the reduction should not be below 15 percent each.

What is the record today? They are delaying now; they are backloading on their commitments apparently in the hope of

catching up towards the end of the six-year period while we are being egged on to fast-track our commitments. In fact, our executive officials are making the proud boast that the Philippines is ahead of its commitments under the WTO.

Then what is the effect of that? The effect of that has been very destructive to our producers.

Mr. President, this is my difficulty. I would like to support our commitment but our big partners in WTO have not been fully compliant with their commitments and the United States of America still continues to invoke Super 301 in order to punish those countries that, in their judgment, are not complying with fair trade practices. They are not using the WTO process. They are using their own trade laws. So bilateralism is still very much there even though we have agreed to inaugurate a regime of multilateralism under the WTO.

This is one of the problems, Mr. President. In our case, we have an Executive that, without looking at the effects on our producers, has been determined to fast-track the reduction, the phase-down of our tariffs regardless of the consequences upon our economy.

I will support the principle. I have my worries, Mr. President, and these worries compel me to cast a negative vote at this point.

Thank you very much, Mr. President.

CONFERENCE COMMITTEE ON
S. NO. 1450/H. NO. 6436
(Agricultural Tariffication Act)

Senator Romulo. Mr. President, for the Senate Panel in the Bicameral Conference Committee, I move that the following be made conferees in said panel: Senators Shahani, Enrile, Flavier, Revilla, and Tatad.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Romulo. The Chairman of the Committee on Agriculture and Food wishes to inform the Members of the Senate Panel that there is a meeting of the Bicameral Conference Committee in the Senators' Lounge at eight o'clock this evening.

CONFERENCE COMMITTEE ON
S. NO. 1461/H. NO. 3946
(Shift from HCV to Transaction Value)

Mr. President, for the Senate Panel in the Bicameral Con-

RECORD OF THE SENATE

TUESDAY, MARCH 26, 1996

OPENING OF THE SESSION

At 4:16 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 73rd session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

We shall rise and be led in prayer by Sen. Juan M. Flavier.

Everybody rose for the opening prayer.

PRAYER

Senator Flavier.

Almighty God, by whose Providence we meet here today: We pause to invoke Your blessings.

Help us to feel Your presence and to obey the leading of Your Holy Spirit.

Remove from our hearts all traces of pride, greed, and arrogance.

Lead us to the path of righteousness and away from the temptation of power.

Grant us open minds and humility of spirit that we may find joy in working together for the well-being of our nation and the glory of Your name.

Bind us therefore in our common desire to be instruments of Your peace and channels of Your love and grace.

And to Your name we ascribe glory and majesty, dominion and power through Jesus Christ, our Lord.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Edgardo J. Angara Present
Senator Heherson T. Alvarez Present
Senator Anna Dominique M.L.Coseteng Present*
Senator Franklin M. Drilon Present

- Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present*
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present*
Senator Ernesto M. Maceda Absent**
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present*
Senator Francisco S. Tatad Present*
Senator Freddie N. Webb Present*
The President Present

The President. With 16 Senators present, the Chair declares the presence of a quorum.

DEFERMENT OF CONSIDERATION OF THE JOURNAL

Senator Romulo. Mr. President, I move that we take up the reading and approval of the Journal later in the session.

The President. Is there any objection? [Silence] There being none, the motion is approved.

The Secretary will please read the Order of Business.

REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

March 25, 1996

Mr. President:

I have been directed to inform the Senate that the House of Representatives on March 20, 1996 passed House Bill No. 6451, entitled

* Arrived after the roll call
** On account of illness

RESOLUTION DIRECTING THE COMMITTEE ON HEALTH AND DEMOGRAPHY TO INVESTIGATE, IN AID OF LEGISLATION, THE PARTICIPATION OF THE BUREAU OF FOOD AND DRUGS IN RAFFLE PROGRAMS OF CIGARETTE COMPANIES, SPECIFICALLY THE HOPE-WINSTON RAFFLE DRAW AND TO MONITOR THE PROGRESS OF THE ANTI-SMOKING OR (YOSI KADIRI) CAMPAIGN OF THE DEPARTMENT OF HEALTH

Introduced by Senator Flavier.

The President. Referred to the Committee on Health and Demography.

The Secretary. Proposed Senate Resolution No. 365, entitled

RESOLUTION DIRECTING THE COMMITTEE ON HEALTH AND DEMOGRAPHY TO INQUIRE, IN AID OF LEGISLATION, THE QUESTIONABLE PRACTICE OF PRIVATE HOSPITALS, REQUIRING THEIR PATIENTS TO PURCHASE MEDICINE ONLY AT THEIR RESPECTIVE PHARMACIES AND REQUIRING SUCH PATIENTS TO SIGN WAIVERS OF THEIR RIGHT TO PURCHASE MEDICINES OUTSIDE THE PRIVATE HOSPITALS' PHARMACIES

Introduced by Senator Flavier.

The President. Referred to the Committee on Health and Demography.

The Majority Leader is recognized.

Senator Romulo. Mr. President, just to report. The Chairman of the Senate panel on Senate Bill No. 1450, the Agricultural Tariffication Act, has stated that the members have come to an agreement, the House and the Senate panels—and therefore, we are waiting for the signatories to be completed on the part of the House panel. We expect the Bicameral Conference Committee Report to be submitted later in the session.

In the case of the disagreeing provisions of Senate Bill No. 1461, the shift from home consumption value to transaction value bill, the Senate panel chaired by Senator Enrile will meet together with the House panel later this evening.

For today's session, Mr. President, we shall take up House

Bill No. 157, the bill granting priority to residents to the barangay, municipality or city where the school is located in the appointment of classroom public school teachers. We shall also take up Senate Bill No. 1032, the Paternity Leave Bill. Thereafter, Senate Bill No. 1471, the bill creating the Traditional and Alternative Health Care Authority; Senate Bill No. 1400, the bill increasing the number of justices of the Court of Appeals; and if there is time, the treaties.

SUSPENSION OF THE SESSION

Before we take up one of the bills, may I ask for a one-minute suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 4:24 p.m.

RESUMPTION OF THE SESSION

At 4:25 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING S. No. 1400-Amending Sec. 3 of Batas Pambansa Blg. 129, Otherwise Known as the Judiciary Reorganization Act of 1980 (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1400. This is the bill amending Section 3 of Batas Pambansa Blg. 129, the Judiciary Organization Act of 1980.

I ask that the Sponsor of the bill and Chairman of the Committee on Justice and Human Rights, Senator Roco, be recognized, with the Minority Leader, Senator Angara, to interpellate.

The President. Senator Roco, the Sponsor, and Senator Angara are recognized.

Senator Roco. As we have agreed, Mr. President, the distinguished Gentleman from Cebu will continue with the defense of the bill.

The President. Senator Fernan is recognized. The Minority Leader, for purposes of interpellation, is likewise recognized.

Senator Fernan. Thank you, Mr. President.

The President. As a consequence after the approval of this amendment.

Senator Coseteng. It is accepted, Mr. President.

The President. Is there any objection to the amendment of Senator Shahani as accepted by the Sponsor? [Silence] There being none, the amendment is hereby approved.

Senator Shahani. Thank you, Mr. President.

Senator Romulo. Mr. President, Senator Herrera's amendment now on the title is in order.

The President. Shall we renumber them now in view of the additional section?

Senator Romulo. Yes, Mr. President, I move that the sections be renumbered accordingly, subject to style.

The President. Is there any objection? [Silence] There being none, the motion is approved.

Senator Herrera is recognized.

HERRERA AMENDMENTS

Senator Herrera. Thank you, Mr. President. The title, Mr. President, the word "recorded" before "spouse" will be deleted and instead put the word LEGITIMATE.

Senator Coseteng. It is accepted, Mr. President.

Senator Herrera. And between the words "SPOUSE" and "AND", insert the following phrase: "WITH WHOM HE IS COHABITING".

The President. Is the latest amendment acceptable to the Sponsor?

Senator Coseteng. The amendment is accepted, Mr. President.

The President. Is there any objection to the Herrera amendments on the title? [Silence] There being none, the amendment is approved.

Senator Herrera. So that the title would read, Mr. President:

AN ACT GRANTING PATERNITY LEAVE OF SEVEN (7) TO A MAXIMUM OF TEN (10)

WORKING DAYS WITH PAY TO ALL MARRIED MALE EMPLOYEES IN THE PRIVATE AND PUBLIC SECTORS FOR THE FIRST THREE (3) DELIVERIES OF THE LEGITIMATE SPOUSE WITH WHOM HE IS COHABITING, AND FOR OTHER PURPOSES

Thank you, Mr. President.

Senator Romulo. Mr. President, I move that we close the period of individual amendments.

The President. Is there any objection to this motion? [Silence] There being none, the period of both Committee and individual amendments on Senate Bill No. 1032 is hereby closed.

APPROVAL OF S. NO. 1032 ON SECOND READING, AS AMENDED

Senator Romulo. Mr. President, I move that we vote on Senate Bill No. 1032, as amended, on Second Reading.

The President. We shall now vote on the bill, as amended, on Second Reading.

As many as are in favor of the bill will please say *Aye*. [Several Senators: *Aye*] As many as are against will please say *Nay*. [Silence]

Senate Bill No. 1032, as amended, is approved on Second Reading.

CONFERENCE COMMITTEE REPORT ON S. NO. 1450/H. NO. 6436

Senator Romulo. Mr. President, the Conference Committee Report of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1450 and House Bill No. 6436, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTION (QRs) ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES,

has been filed with the Office of the Secretary.

The Conference Committee Report, Mr. President, has been signed by the Members of the Senate panel, all of them recommending the approval of the Conference Committee Report.

Likewise, it has been signed by a majority of the Members of the House of Representatives.

To render a report on the Conference Committee Report, may I ask that the Chairperson of the Senate panel, Senator Shahani, be recognized.

The President. Senator Shahani is recognized.

Senator Shahani. Thank you, Mr. President.

The Senate panel and its House counterparts last night met in a Bicameral Committee to harmonize the disagreeing provisions of Senate Bill No. 1450 and House Bill No. 6436.

The subject matter was fully discussed in a conference on March 26 and which continued until about 2:30 in the afternoon.

I therefore have the honor, Mr. President, of reporting the following:

1. Section 1 of the Senate version was adopted as Section 1 of the reconciled version.
2. The first and second paragraphs of Section 1 of the House version and the third paragraph of Section 2 of the Senate version were fused to make Section 2, which is the Declaration of Policy.
3. Section 3 of the Senate version was adopted as Section 3.
4. Section 4 of the Senate version which, is almost similar to Section 3 of the House version, was adopted as Section 4 of the reconciled version.
5. Section 4 of the House version was adopted as Section 5 with the following inserted provision: *PROVIDED, THAT THIS REQUIREMENT SHALL NOT APPLY TO THE IMPORTATION OF RICE EQUIVALENT TO THE MINIMUM ACCESS VOLUME OBLIGATION OF THE PHILIPPINES UNDER WTO.*
6. The first paragraph of Section 6 of the Senate bill was adopted to make the first statement of Section 6 of the reconciled version, after which the following sentences were added: *THE PRESIDENT SHALL ISSUE THE CORRESPONDING TARIFFS BEGINNING 1996 UP TO THE YEAR 2000 PROVIDED THAT THE SCHEDULE OF THE INITIAL AND FINAL APPLIED RATES SHALL BE CONSISTENT WITH THE COUNTRY'S TARIFF BINDING COMMIT-*

MENTS. IN CASE OF SHORTAGES OR ABNORMAL PRICE INCREASES IN AGRICULTURAL PRODUCTS, WHOSE QUANTITATIVE RESTRICTIONS ARE LIFTED UNDER THIS ACT, THE PRESIDENT MAY PROPOSE TO CONGRESS REVISIONS, MODIFICATIONS OR ADJUSTMENTS OF THE MINIMUM ACCESS VOLUME (MAV); PROVIDED, HOWEVER, THAT IN THE EVENT CONGRESS FAILS TO ACT AFTER FIFTEEN (15) DAYS FROM RECEIPT OF THE PROPOSAL, THE SAME SHALL BE DEEMED APPROVED.

In other words, the Senate panel did not entertain the other House bill which contained the schedule of tariffs on the premise that there was no more time to consider that House bill.

At this juncture—and, I think, this is a very important part of this Joint Explanation—the Bicameral Conference Committee agreed that upon the resumption of session—that is April 29, when we meet after the coming recess—Congress may review the rates set by the President, and the Senate Panel, in particular the Chairman of the Committee on Ways and Means, Senator Enrile, agreed to immediately propose to consider House Bill No. 6451, entitled

AN ACT FURTHER MODIFYING THE NOMENCLATURE OR CLASSIFICATION AND RATE OF IMPORT DUTY ON CERTAIN AGRICULTURAL PRODUCTS, AMENDING FOR THE PURPOSE SECTION 104 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES,

authored by Congressman Tajon, et al., which the House earlier passed and transmitted to the Senate on March 25, 1996. That is the afternoon of the day in which we met in bicameral conference.

7. Section 7 of the Senate version on the mechanism for the implementation of minimum access volumes was adopted since the House version contains no such provision. However, this section deleted the Agricultural Sector Advisory Council. The provisions on the detailed functions of the Cabinet Committee were likewise deleted. Instead it was indicated that the Cabinet Committee is tasked to submit to Congress within a period of sixty (60) days from the effectivity of the Act,

the appropriate mechanism for the implementation of the minimum access volumes.

8. Section 8 of the Senate version was adopted as Section 8 of the reconciled version with the amendment that the entire proceeds, and not just 50 percent of the importation of the minimum access volumes, shall be set aside and earmarked by Congress, and that the Committee on Agriculture and Food and the Committees on Appropriations/Finance of both the Senate and the House of Representatives shall conduct the periodic review of the use of the fund.
9. Section 9 of the Senate Version was deleted.
10. Sections 9, 10 and 11 of the reconciled version are the standard Repealing, Separability and Effectivity sections, respectively.
11. The title of the Senate version was adopted.

I have signed this joint explanation and my counterpart in the House of Representatives, Rep. Margarito Teves, has likewise signed it.

So, Mr. President, this is the report of our Senate panel on the meeting of the Bicameral Conference Committee.

Before we go to the approval of the Conference Committee Report, I just would like to bring to the attention of this Chamber a slight mistake which was made in the final version. I guess, we were all very tired, and because of the late hour, we just were not able to catch this one minor matter. Therefore, I bring it to the Chair's attention.

**MOTION OF SENATOR SHAHANI
(Correction on Conference Committee Report
on S. No. 1450/H. No. 6436)**

Mr. President, in consultation with our counterparts in the Senate and House Conference Committee, I move for the approval of the Conference Committee Report now before the Chair. However, with one amendment, that is, on page 2 under Section 3, *Definition of Terms*, subsection B, "Agricultural Sector Advisory Committee", these words should be deleted because the pertinent provision to which this has reference was actually deleted by the Conference Committee. In the finalization of the report, the panel inadvertently overlooked the need to likewise delete this earlier subsection.

Mr. President, before I move for the approval of this amendment, I just would like to thank my Colleagues in the

Senate panel: Senators Enrile, Flavio, Revilla and Tatad for the unstinting cooperation they gave to this Chairperson, as well as, to the House panel. I believe that both panels of the House and the Senate did try their very best, and we believe that this Conference Committee Report is the best that could be done within the circumstances before us.

In view of the very tight schedule which we are operating on and the need for us to finalize our action on this matter so that it can move to another level which is the international level, I hope, Mr. President, that this will meet the approval of this Chamber.

I move that, first, we approve the amendment which I have just indicated to the Chair.

Senator Roco. Are we just voting on the amendment? We are not yet voting on the report, Mr. President? Is this the parliamentary status? That is the motion, yes. Then, I will wait for my turn after the amendment.

Senator Romulo. Mr. President, we are just voting on the amendment correcting the Conference Committee Report as indicated by the Chairperson of the panel. May I ask the Sponsor to restate the deletion.

Senator Shahani. Yes, Mr. President. On page 2, under Section 3, *Definition of Terms*, subsection (b), entitled AGRICULTURAL SECTOR ADVISORY COMMITTEE, should be deleted. That is the amendment. This is because the pertinent provision to which this has reference was deleted in the Conference Committee and in the text. It is just to make it consistent.

The President. Is there any objection to this amendment? [Silence] There being none, the amendment is approved.

Should the subsequent subparagraphs not be renumbered to conform with this amendment?

Senator Shahani. That is correct, Mr. President. Thank you for the suggestion.

The President. This is, therefore, an omnibus amendment to renumber the subsequent subparagraphs and Section 3.

Is there any objection to this omnibus motion? [Silence] There being none, the motion is hereby approved.

Senator Roco is recognized.

Senator Roco. Will the Lady Senator, Mr. President, yield for some questions?

Senator Shahani. I will be happy to do so, Mr. President.

Senator Roco. Will the distinguished Lady Senator kindly reiterate the explanation to the disappearance of our amendment? She told me earlier about it. I am not sure if she mentioned it when she was going through the formal explanation.

The amendment expressly recognizes the right of the country to react, by imposing up to 33 percent tariff safeguard provision. It is in the Treaty. It recognizes that the country can react. It recognizes that the President or the Congress can protect our farmers. That is why we thought it should be put in Section 6, because there might be a need to react swiftly in case of unusual import fluctuation. But that has disappeared, Mr. President.

May we just know why it disappeared, and what is the reason for such a disappearance?

Senator Shahani. I would like to assure our Colleague from the Bicol region that his amendment was not made to do a disappearing act, Mr. President.

As I have said in my explanation, this present version of the Bicameral Report does not contain any specific mention of tariff rates. That was, I think, one of the most important decisions which we arrived at.

In other words, because of lack of time, we were not able to consider House Bill No. 6541 sponsored by Congressman Tajon, et al., which contained the rates of import duty. So we felt that the important amendment of our Colleague from the Bicol region would better be placed in that bill, because we decided that the President, in the meantime, can decide on what tariffs to impose, and when Congress will meet again in May, after our recess, that will be the time to consider the bill of the House containing the specific tariff rates. We felt that the amendment of our Colleague from Bicol, which we accepted here in the Senate, would be better placed in that bill.

Senator Roco. We will accept, of course, Mr. President, a Committee recommendation. At this point in time, we will not delay any further. That deleted provision, which was recognized and incorporated into the law, has nothing to do with specific tariffs but has something to do with a specific Article and Section recognizing the right or power of the Republic of the Philippines or the President to impose higher tariff. That is given by the Treaty and could have been very well put here.

May we just have an assertion from the Lady Senator that by deleting that, it was not the intention to lose or to lessen the rights of the Republic of the Philippines granted already by the

Treaty just so we can prevent any argument in statutory construction later on?

Senator Shahani. Yes, Mr. President. I would like to assure our distinguished Colleague that that is not our intention. Indeed, I did have a conversation with our Colleague from the Bicol region before he proposed it. He pointed out to me how important it was that we, as a member of the WTO, must be aware of our rights as a State's party to the Treaty, and that a repetition of this right in domestic legislation would be very important to remind us of our rights under that Treaty.

I would like to assure our distinguished Colleague, Mr. President, that at the appropriate time, when we shall be discussing the other bill when we resume our regular work here in Congress, his concerns about the inclusion of this specific amendment will be fully considered. I, myself, if I am a member of the bicameral committee or in whatever occasion, will have to see to it that his valuable amendment is not lost.

Senator Roco. Mr. President, by way of seeking support for our concerns, as we have manifested to the Lady Senator, we are being told all the time about our duties under the GATT-Uruguay Round. All this Representation is trying to do is focus also on our rights because we must not just keep focusing on our duties as though, having entered the GATT, all of a sudden there are so many things to do now.

We must start asserting, even now, from the inception, that the Philippines still has rights, and we do not propose to lose them by omission, by mischance, or by actual permission. That is my only concern, Mr. President. I do not really appreciate why it was deleted, but there is very little we can do about it now so I will stop there.

Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON S. NO. 1450 / H. NO. 6436

Senator Romulo. Mr. President, I move that we vote on the Bicameral Conference Committee Report as reported by the Chairperson of the Senate panel.

The President. Is there any objection to the approval of the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1450 and House Bill No. 6436?

Senator Coseteng. Mr. President.

The President. Senator Coseteng is recognized.

Senator coseteng. Mr. President, I am not going to cast a negative vote. I am voting *Yes*, but I would like to reserve the right to file a written explanation of my *Yes* vote.

Senator Santiago. Mr. President.

The President. Senator Santiago is recognized.

Senator Santiago. For the record, I object, Mr. President, consistent with my interpellation conducted during that period.

The President. We shall now vote on the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1450 and House Bill No. 6436.

As many as are in favor of the Conference Committee Report will please say *Aye*. [*Several Senators: Aye*] As many as are against will please say *Nay*. [*Silence*]

The *Ayes* have it. The Conference Committee Report on the disagreeing provisions on the two bills is hereby approved.

The following is the full text of the Conference Committee Report:

The Conference Committee on the disagreeing provisions of Senate Bill No. 1450, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES,

and House Bill No. 6436, entitled

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS (QRs) ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL PROTECTION TARIFFICATION FUND AND PROVIDING FUNDS THEREFOR,

has agreed to recommend and does hereby recommend to their respective Houses that Senate Bill No. 1450 and House Bill No. 6436 be consolidated and approved in accordance with the attached copy of the bill as reconciled and approved by the conferees:

Approved,

*CONFEREES ON THE PART OF THE
THE HOUSE OF REPRESENTATIVES*

(Sgd.) HON. MARGARITO B. TEVES

(Sgd.) HON. ANGELITO M. SARMIENTO

(Sgd.) HON. ERIC D. SINGSON

(Sgd.) HON. MARIANO M. TAJON

Abstention

(Sgd.) HON. JOHN HENRY R. OSMEÑA

(Sgd.) HON. EXEQUIEL B. JAVIER

(Sgd.) HON. CARLOS M. PADILLA

(Sgd.) HON. ELIAS B. LOPEZ

(Sgd.) HON. FELICITO C. PAYUMO

(Sgd.) HON. RENATO V. DIAZ

CONFEREES ON THE PART OF SENATE

(Sgd.) HON. LETICIA RAMOS SHAHANI

(Sgd.) HON. JUAN PONCE ENRILE

(Sgd.) HON. JUAN M. FLAVIER

(Sgd.) HON. RAMON B. REVILLA

(Sgd.) HON. FRANCISCO S. TATAD

AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* - This Act shall be known as the "Agricultural Tariffication Act."

SEC. 2. Declaration of Policy. - It is the policy of the State to make the country's agricultural sector viable, efficient and globally competitive. The State adopts the use of tariffs in lieu of non-tariff import restrictions, to protect local producers of agricultural products, except in the case of rice, which will continue to have quantitative import restrictions.

Consistent with the Constitutional mandate of protecting Filipino firms against unfair trade, it is furthermore the policy of the State to employ anti-dumping and countervailing measures to protect local producers from unfair trade practices, rather than use quantitative import restrictions.

To help the agricultural sector compete globally, the State shall seek to raise farm productivity levels by providing the necessary support services such as, but not limited to, irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension services, other market infrastructure and market information.

SEC. 3. Definition of Terms. - The following definitions apply to the terms used in this Act:

- (a) "Agricultural products" shall have the same meaning as agricultural products under Chapters 1-24 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, as amended.
- (b) "Applied Rate" is the rate of import duty that is actually used by Customs authorities in the collection of Customs revenues.
- (c) "Bound Rate" refers to maximum limits on tariffs on products committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act.
- (d) "In-Quota Tariff Rate" refers to the tariff rates for minimum access volumes committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act.
- (e) "Minimum Access Volume" refers to the volume of a specific agricultural product that is allowed to be imported with a lower tariff as committed by the Philippines to the World Trade Organization under the Uruguay Round Final Act.

- (f) "Quantitative Import Restrictions" refers to non-tariff restrictions used to limit the amount of imported commodities, including but not limited to discretionary import licensing and import quotas, whether qualified or absolute.
- (g) "Tariff" refers to a tax levied on a commodity imported from another country. It earns revenues for the government and regarded as instruments to promote local industries by taxing their competitors. The benefit is accorded to the local producers by the maintenance of a domestic price at a level equal to the world price plus the tariff.
- (h) "Tariffication" refers to the lifting of all existing quantitative restrictions such as import quotas or prohibitions, imposed on agricultural products, and replacing these restrictions with tariffs.

SEC. 4. Repeal. - The following laws and all other laws or provisions of law prescribing quantitative import restrictions or granting government agencies the power to impose such restrictions on agricultural products, except rice, are hereby repealed:

- (1) Republic Act No. 1296, entitled "An Act to Prohibit the Importation of Onions, Potatoes, Garlic, and Cabbages, Except for Seedling Purposes, and to Provide Penalties for the Violation Thereof";
- (2) Republic Act No. 2712, entitled "An Act to Prohibit the Importation of Coffee";
- (3) Presidential Decree No. 1297, as amended, entitled "Centralizing the Importation of Ruminants for Breeding, Slaughter and Beef";
- (4) Paragraph 10 of Section 23 of Republic Act No. 7607, entitled "An Act Providing a Magna Carta for Small Farmers";
- (5) Paragraph (a) of Section 15 of Republic Act No. 7308, entitled "Seed Industry Development Act";
- (6) Section 4 of Republic Act No. 4155, as amended, entitled "An Act to Promote and Strengthen the Virginia Tobacco Industry"; and
- (7) Presidential Decree No. 1483, entitled "Authorizing the Importation of Foreign Cigar Leaf Tobacco for Blending Purposes".

SEC. 5. *Amendment.* - Sub-paragraph (xii), paragraph (1) Section 6 of Presidential Decree No. 4 (National Grains Authority Act), as amended, is hereby amended to read as follows:

“Sec. 6. (a) Powers -

(xii) To establish rules and regulations governing the importation of rice [corn and other grains and their substitutes and/or by-products/end-products] and to license, impose and collect fees and charges for said importation for the purpose of equalizing the selling price if such imported [grains and their substitutes and/or their by-products/end-products] RICE with normal prevailing domestic prices.

In the exercise of this power, the Council after consultation with the Office of the President shall first certify to a shortage of [grains and/or their substitutes] RICE that may occur as a result of a short-fall in production, a critical demand-supply gap, a state of calamity or other verified reasons that may warrant the need for importation; *PROVIDED, THAT THIS REQUIREMENT SHALL NOT APPLY TO THE IMPORTATION OF RICE EQUIVALENT TO THE MINIMUM ACCESS VOLUME OBLIGATION OF THE PHILIPPINES UNDER THE WTO.* The Authority shall undertake direct importation of [grains and/or their substitutes] RICE or it may allocate import quotas among certified and licensed importers, and the distribution thereof through cooperatives and other marketing channels, at prices to be determined by the Council regardless of existing floor prices and the subsidy thereof, if any, shall be borne by the National Government.”

SEC. 6. *Tariffication.* - In lieu of quantitative restrictions, the maximum bound rates committed under the Uruguay Round Final Act shall be imposed on the agricultural products whose quantitative restrictions are repealed by this Act. The President shall issue the corresponding tariffs beginning 1996 up to year 2000, provided that the schedule of the initial and final applied rates shall be consistent with the country's tariff binding commitments.

In case of shortages or abnormal price increases in

agricultural products, whose quantitative restrictions are lifted under this Act, the President may propose to Congress, revisions, modifications or adjustments of the Minimum Access Volumes (MAV); *Provided, however,* that in the event Congress fails to act after fifteen (15) days from receipt of the proposal, the same shall be deemed approved.

SEC. 7. *Mechanism for the Implementation of Minimum Access Volume (MAV).* - An equitable and transparent mechanism for allocating the Minimum Access Volume (MAV) of agricultural products, whose quantitative restrictions are herein lifted, shall be developed and established, having the least government intervention, addressing the requirements of each geographical area, and without entailing any cost to importers/users of these products to the detriment of local consumers and other end-users.

For this purpose and in accordance with the abovementioned guiding principles, the Cabinet Committee created by Memorandum Order No. 245 dated December 13, 1994, to oversee and manage the minimum access quotas committed by the Philippines under the General Agreement on Tariffs and Trade Uruguay Round with the inclusion of the National Economic and Development Authority (NEDA), and in consultation with all concerned agricultural farmer/producer/processor/importer groups, shall submit to Congress within a period of sixty (60) days from the effectivity of this Act, the appropriate mechanism for the implementation of the minimum access volumes.

SEC. 8. *Agricultural Competitiveness Enhancement Fund.* - To implement the policy enunciated in this Act, there is hereby created the Agricultural Competitiveness Enhancement Fund, hereinafter referred to as the Fund. The proceeds of the importation of minimum access volume shall accrue to the General Fund and shall be deposited with the National Treasury.

The entire proceeds shall be set aside and earmarked by Congress for irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, other marketing infrastructure, provision of market information, retraining, extension services, and other forms of assistance and support to the agricultural sector.

The Committees on Agriculture and Food and Appropriations/Finance of both the Senate and the House of Representatives all conduct a periodic review

of the use of the Fund. The Fund shall have a life of nine (9) years, after which all remaining balances shall revert to the General Fund.

SEC. 9. Repealing Clause. - All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 10. Separability Clause. - The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

SEC. 11. Effectivity. - This Act shall take effect thirty (30) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Senator Romulo. Mr. President, at the start of the session, Senator Coseteng asked to rise on a question of personal privilege. However, she had graciously consented to allow the bills that we have discussed to be taken up.

May I now ask that Senator Coseteng be recognized on a question of personal privilege.

The President. Senator Coseteng is recognized on a matter of personal privilege.

Senator Coseteng. Thank you, Mr. President.

**QUESTION OF PRIVILEGE OF SENATOR COSETENG
(Expression of Gratitude Re Prosecution of
Corrupt Officials)**

Senator Coseteng. Mr. President, Honorable Colleagues: I stand today before my Colleagues on a matter of personal privilege to express my gratitude to our Senate President, Sen. Neptali Gonzales, to our Majority Leader, Sen. Alberto Romulo, and to a former Colleague, now Justice Secretary Teofisto Guingona Jr. for the support that they have provided this humble Representation in her crusade to prosecute those who would seek to undermine and corrupt the office of a Senator of this Republic.

Mr. President, last Sunday, I raised some issues against the National Bureau of Investigation for its sloppy handling of the investigation into the audacious and brash attempt by former Sec. Hilarion Ramiro Jr. and his cohorts to bribe me into

withdrawing the witnesses and documents I had compiled against him.

For sure, the investigation became a cause for concern since it appeared that the NBI was moving towards a whitewash. Perhaps, this was so because there were also those who tried to play their hand and influence events in order to reverse the circumstances.

Mr. President, these people failed to realize that circumstances had become irreversible and their fate had already been sealed by their very own hand.

What the former health secretary and his people failed to understand was that there are dire consequences for those who dare make a mockery of the people's trust.

Yesterday, Mr. President, NBI Director Santiago Toledo recommended the filing of charges of bribery under Article 212 of the Revised Penal Code, entitled "Corruption of Public Officials" and under Section 3 of the Anti-Graft and Corrupt Practices Act against the former health secretary and his brother-in-law, Mr. Felix Villaluz. And so, the people shall exact their pound of flesh.

I would also like to thank our Colleague, Senator Flavier, for his unflagging insistence to uncover and get to the truth. His exposés about medical kits attracted national attention and could no longer be swept under the carpet.

Mr. President, many people have also lent their helping hand. And this led to the discovery of the overpriced purchase of blood bags, the bribe of P2.5 million given in exchange for a purchase order to be issued to Med Test Incorporated for the purchase of hepatitis B vaccines, when, in fact, they had already won the bid, and yet the Department of Health refused to issue the purchase order before this bribe money was released.

Many other various anomalies had been uncovered and unearthed, Mr. President. These were questionable and anomalous transactions undertaken at the behest or authority of Mr. Ramiro and some DOH officials under him.

Being a former Colleague during my term in the Lower House, the turn of events in which Mr. Ramiro found himself embroiled in does not give me pleasure at all. But it came down to a choice between a former legislative Colleague and the Filipino people's welfare and interest. Mr. President, the choice was painfully obvious.

At last Sunday's press conference at my residence, Mr. President, Your Honor saw fit to throw the full support of the