



HOUSE OF REPRESENTATIVES

H. No. 8623

---

INTRODUCED BY HONORABLE TEVES, ROXAS II, BELMONTE JR.,  
PUNZALAN JR., SUAREZ, SALCEDA, LARA, GULLAS, JALA, YAPHA  
JR., SUPLICO, GONZALES (R.), LOPEZ (R.), DY JR., DEQUINA,  
CANDAZO, PEREZ JR., SINGSON, GARCIA (E.) JR., NEPOMUCENO,  
SILVERIO, BUESER, MADRONA, NANTES, RECTO, OROLA JR.,  
VILLANUEVA, PARAS, LIBANAN, LOCSIN, VICENCIO, ALVAREZ (P.),  
SARMIENTO (R.), DILANGALEN, TAMMANG, COSALAN, CALALAY,  
LANOT, OCAMPO, PONCE JR., OSABEL, PILAPIL, SARENAS, TUAZON,  
SYJUCO, LIBAN, QUIMPO, FUENTEBELLA, MACARAMBON JR.,  
AUMENTADO, ABAD, VELOSO, BANAAG, ABAYON, REYES JR.,  
TULAGAN, JAAFAR, ANGPING, TAÑADA, ACOSTA, AQUINO III, CRUZ  
(T.), ADIONG, SALUDO JR., JOAQUIN, ARROYO, ALVAREZ (H.),  
APOSTOL, BUNYE, DATUMANONG, ECHIVERRI, GUNIGUNDO I,  
MORENO, SANDOVAL II, FORTUNO, JACOB, GARCIA (M.), LEVISTE,  
MAGTUBO, FUENTES, ANGARA-CASTILLO, GONZALES II, GOLEZ,  
CALIMBAS-VILLAROSA AND BADELLES, PER COMMITTEE REPORT  
No. 475

---

AN ACT AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL  
DECREE NO. 1464, OTHERWISE KNOWN AS THE TARIFF  
AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED,  
AND FOR OTHER PURPOSES

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

1           SECTION. 1. Section 201 of the Tariff and Customs Code of the  
2 Philippines, as amended, is hereby further amended to read as follows:

3           "SEC. 201. *Basis of Dutiable Value.* – (A) **METHOD ONE.** –  
4 **TRANSACTION VALUE.** – The dutiable value of an imported article subject

1 to an *ad valorem* rate of duty shall be the transaction value, which shall be  
2 the price actually paid or payable for the goods when sold for export to the  
3 Philippines, adjusted by adding [the following to the extent that they are  
4 incurred by the buyer but are not included in the price actually paid or  
5 payable for the imported goods]:

6 (1) THE FOLLOWING TO THE EXTENT THAT THEY ARE INCURRED  
7 BY THE BUYER BUT ARE NOT INCLUDED IN THE PRICE ACTUALLY PAID  
8 OR PAYABLE FOR THE IMPORTED GOODS:

9 [(a)] (A) Commissions and brokerage fees (except buying  
10 commissions);

11 (B) Cost of containers; [and]

12 (C) The cost packing, whether for labour or materials;

13 [(b)] (D) The value, APPORTIONED AS APPROPRIATE, of THE  
14 FOLLOWING GOODS AND SERVICES: materials, components, parts and  
15 SIMILAR items incorporated in the imported goods; tools; dies; moulds and  
16 similar items used in the production of imported goods; materials  
17 consumed in the production of the imported goods; and engineering,  
18 development, artwork, design work, and plans and sketches undertaken  
19 elsewhere than in the Philippines and necessary for the production of  
20 imported goods, where such goods and services are supplied directly or  
21 indirectly by the buyer free of charge or at a reduced cost for use in  
22 connection with the production and sale for export of the imported goods;[,  
23 to the extent that such value has not been included in the price actually paid  
24 or payable;]

25 [(c)] (E) The amount of royalties and license fees RELATED TO  
26 THE GOODS BEING VALUED that the buyer must pay, either directly or  
27 indirectly, [in connection with the goods being valued,] as a condition of  
28 sale of the goods to the buyer;

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

4           [(e)] (3) The cost of transport of the imported goods from the port  
5 of exportation to the port of entry in the Philippines;

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

9           [(g)] (5) The cost of insurance.

10           ALL ADDITIONS TO THE PRICE ACTUALLY PAID OR PAYABLE  
11 SHALL BE MADE ONLY ON THE BASIS OF OBJECTIVE AND QUANTIFIABLE  
12 DATA.

13           NO ADDITIONS SHALL BE MADE TO THE PRICE ACTUALLY PAID OR  
14 PAYABLE IN DETERMINING THE CUSTOMS VALUE EXCEPT AS PROVIDED  
15 IN THIS SECTION: *PROVIDED*, THAT METHOD ONE SHALL NOT BE USED  
16 IN DETERMINING THE DUTIABLE VALUE OF IMPORTED GOODS IF:

17           (A) THERE ARE RESTRICTIONS AS TO THE DISPOSITION OR USE OF  
18 THE GOODS BY THE BUYER OTHER THAN RESTRICTIONS WHICH:

19           (I) ARE IMPOSED OR REQUIRED BY LAW OR BY PHILIPPINE  
20 AUTHORITIES;

21           (II) LIMIT THE GEOGRAPHICAL AREA IN WHICH THE GOODS  
22 MAY BE RESOLD; OR

23           (III) DO NOT SUBSTANTIALLY AFFECT THE VALUE OF THE  
24 GOODS.

25           (B) THE SALE OR PRICE IS SUBJECT TO SOME CONDITION OR  
26 CONSIDERATION FOR WHICH A VALUE CANNOT BE DETERMINED WITH  
27 RESPECT TO THE GOODS BEING VALUED;

28           (C) PART OF THE PROCEEDS OF ANY SUBSEQUENT RESALE,  
29 DISPOSAL OR USE OF THE GOODS BY THE BUYER WILL ACCRUE  
30 DIRECTLY OR INDIRECTLY TO THE SELLER, UNLESS AN APPROPRIATE

1 ADJUSTMENT CAN BE MADE IN ACCORDANCE WITH THE PROVISIONS  
2 HEREOF; OR

3 (D) THE BUYER AND THE SELLER ARE RELATED TO ONE  
4 ANOTHER, AND SUCH RELATIONSHIP INFLUENCED THE PRICE OF THE  
5 GOODS. SUCH PERSONS SHALL BE DEEMED RELATED IF:

6 (I) THEY ARE OFFICERS OR DIRECTORS OF ONE ANOTHER'S  
7 BUSINESSES;

8 (II) THEY ARE LEGALLY RECOGNIZED PARTNERS IN BUSINESS;

9 (III) THERE EXIST AN EMPLOYER-EMPLOYEE RELATIONSHIP  
10 BETWEEN THEM;

11 (IV) ANY PERSON DIRECTLY OR INDIRECTLY OWNS, CONTROLS  
12 OR HOLDS FIVE PERCENT (5%) OR MORE OF THE OUTSTANDING VOTING  
13 STOCK OR SHARES OF BOTH SELLER AND BUYER;

14 (V) ONE OF THEM DIRECTLY OR INDIRECTLY CONTROLS THE  
15 OTHER;

16 (VI) BOTH OF THEM ARE DIRECTLY OR INDIRECTLY  
17 CONTROLLED BY A THIRD PERSON;

18 (VII) TOGETHER THEY DIRECTLY OR INDIRECTLY CONTROL A  
19 THIRD PERSON; OR

20 (VIII) THEY ARE RELATED BY AFFINITY OR CONSAGUINITY UP  
21 TO THE FOURTH CIVIL DEGREE.

22 PERSONS WHO ARE ASSOCIATED IN BUSINESS WITH ONE ANOTHER  
23 IN THAT ONE IS THE SOLE AGENT, SOLE DISTRIBUTOR OR SOLE  
24 CONCESSIONAIRE, HOWEVER DESCRIBED, OF THE OTHER SHALL BE  
25 DEEMED TO BE RELATED FOR THE PURPOSES OF THIS ACT IF THEY FALL  
26 WITHIN THE CRITERIA OF PARAGRAPH (D) HEREOF.

27 (B) *METHOD TWO. - IDENTICAL GOODS VALUE.* - WHERE THE  
28 DUTIABLE VALUE CANNOT BE DETERMINED UNDER METHOD ONE, THE  
29 DUTIABLE VALUE SHALL BE THE TRANSACTION VALUE OF IDENTICAL  
30 GOODS SOLD FOR EXPORT TO THE PHILIPPINES AND EXPORTED AT OR  
31 ABOUT THE SAME TIME AS THE GOODS BEING VALUED. "IDENTICAL

1 GOODS" SHALL MEAN GOODS WHICH ARE THE SAME IN ALL RESPECTS,  
2 INCLUDING PHYSICAL CHARACTERISTICS, QUALITY AND REPUTATION.  
3 MINOR DIFFERENCES IN APPEARANCES SHALL NOT PRECLUDE GOODS  
4 OTHERWISE CONFORMING TO THE DEFINITION FROM BEING REGARDED  
5 AS IDENTICAL.

6 (C) *METHOD THREE. - SIMILAR GOODS VALUE.* - WHERE THE  
7 DUTIABLE VALUE CANNOT BE DETERMINED UNDER THE PRECEDING  
8 METHOD, THE DUTIABLE VALUE SHALL BE THE TRANSACTION VALUE OF  
9 SIMILAR GOODS SOLD FOR EXPORT TO THE PHILIPPINES AND EXPORTED  
10 AT OR ABOUT THE SAME TIME AS THE GOODS BEING VALUED. SIMILAR  
11 GOODS" SHALL MEAN GOODS WHICH, ALTHOUGH NOT ALIKE IN ALL  
12 RESPECTS, HAVE LIKE CHARACTERISTICS AND LIKE COMPONENT  
13 MATERIALS WHICH ENABLE THEM TO PERFORM THE SAME FUNCTIONS  
14 AND TO BE COMMERCIALY INTERCHANGEABLE. THE QUALITY OF THE  
15 GOODS, THEIR REPUTATION AND THE EXISTENCE OF A TRADEMARK  
16 SHALL BE AMONG THE FACTORS TO BE CONSIDERED IN DETERMINING  
17 WHETHER GOODS ARE SIMILAR.

18 IF THE DUTIABLE VALUE STILL CANNOT BE DETERMINED  
19 THROUGH THE SUCCESSIVE APPLICATION OF THE TWO IMMEDIATELY  
20 PRECEDING METHODS, THE DUTIABLE VALUE SHALL BE DETERMINED  
21 UNDER METHOD FOUR OR, WHEN THE DUTIABLE VALUE STILL CANNOT  
22 BE DETERMINED UNDER THAT METHOD, UNDER METHOD FIVE, EXCEPT  
23 THAT, AT THE REQUEST OF THE IMPORTER, THE ORDER OF  
24 APPLICATION OF METHODS FOUR AND FIVE SHALL BE REVERSED:  
25 *PROVIDED, HOWEVER,* THAT IF THE COMMISSIONER OF CUSTOMS  
26 DEEMS THAT HE WILL EXPERIENCE REAL DIFFICULTIES IN DETERMINING  
27 THE DUTIABLE VALUE USING METHOD FIVE, THE COMMISSIONER OF  
28 CUSTOMS MAY REFUSE SUCH A REQUEST IN WHICH EVENT THE  
29 DUTIABLE VALUE SHALL BE DETERMINED UNDER METHOD FOUR, IF IT  
30 CAN BE SO DETERMINED.

31 (D) *METHOD FOUR - DEDUCTIVE VALUE.* - THE DUTIABLE  
32 VALUE OF THE IMPORTED GOODS UNDER THIS METHOD SHALL BE THE

1 DEDUCTIVE VALUE WHICH SHALL BE BASED ON THE UNIT PRICE AT  
2 WHICH THE IMPORTED GOODS OR IDENTICAL OR SIMILAR IMPORTED  
3 GOODS ARE SOLD IN THE PHILIPPINES, IN THE SAME CONDITION AS  
4 WHEN IMPORTED, IN THE GREATEST AGGREGATE QUANTITY, AT OR  
5 ABOUT THE TIME OF THE IMPORTATION OF THE GOODS BEING VALUED,  
6 TO PERSONS NOT RELATED TO THE PERSONS FROM WHOM THEY BUY  
7 SUCH GOODS, SUBJECT TO DEDUCTIONS FOR THE FOLLOWING:

8 (1) EITHER THE COMMISSIONS USUALLY PAID OR AGREED TO BE  
9 PAID OR THE ADDITIONS USUALLY MADE FOR PROFIT AND GENERAL  
10 EXPENSES IN CONNECTION WITH SALES IN SUCH COUNTRY OF IMPORTED  
11 GOODS OF THE SAME CLASS OR KIND;

12 (2) THE USUAL COSTS OF TRANSPORT AND INSURANCE AND  
13 ASSOCIATED COSTS INCURRED WITHIN THE PHILIPPINES; AND

14 (3) WHERE APPROPRIATE, THE COSTS AND CHARGES REFERRED  
15 TO IN SUBSECTION (A) (3), (4) AND (5); AND

16 (4) THE CUSTOMS DUTIES AND OTHER NATIONAL TAXES  
17 PAYABLE IN THE PHILIPPINES BY REASON OF THE IMPORTATION OR SALE  
18 OF THE GOODS.

19 IF NEITHER THE IMPORTED GOODS NOR IDENTICAL NOR SIMILAR  
20 IMPORTED GOODS ARE SOLD AT OR ABOUT THE TIME OF IMPORTATION  
21 OF THE GOODS BEING VALUED IN THE PHILIPPINES IN THE CONDITIONS  
22 AS IMPORTED, THE CUSTOMS VALUE SHALL, SUBJECT OTHERWISE TO  
23 THE PROVISIONS OF SUBSECTION (D) HEREOF, BE BASED ON THE UNIT  
24 PRICE AT WHICH THE IMPORTED GOODS OR IDENTICAL OR SIMILAR  
25 IMPORTED GOODS SOLD IN THE COUNTRY OF IMPORTATION IN THE  
26 CONDITION AS IMPORTED AT THE EARLIEST DATE AFTER THE  
27 IMPORTATION OF THE GOODS BEING VALUED BUT BEFORE THE  
28 EXPIRATION OF NINETY (90) DAYS AFTER SUCH IMPORTATION.

29 IF NEITHER THE IMPORTED GOODS NOR IDENTICAL NOR SIMILAR  
30 IMPORTED GOODS ARE SOLD IN THE PHILIPPINES IN THE CONDITION AS  
31 IMPORTED, THEN, WHETHER OR NOT THE IMPORTER SO REQUESTS, THE  
32 DUTIABLE VALUE SHALL BE BASED ON THE UNIT PRICE AT WHICH THE

1 IMPORTED GOODS, AFTER FURTHER PROCESSING, ARE SOLD IN THE  
2 GREATEST AGGREGATE QUANTITY TO PERSONS IN THE PHILIPPINES  
3 WHO ARE NOT RELATED TO THE PERSONS FROM WHOM THEY BUY SUCH  
4 GOODS, SUBJECT TO ALLOWANCE FOR THE VALUE ADDED BY SUCH  
5 PROCESSING AND DEDUCTIONS PROVIDED UNDER SUBSECTIONS (D)(1),  
6 (2), (3) AND (4) HEREOF.

7 (E) *METHOD FIVE- COMPUTED VALUE.* - THE DUTIABLE VALUE  
8 UNDER THIS METHOD SHALL BE THE COMPUTED VALUE WHICH SHALL  
9 BE THE SUM OF:

10 (1) THE COST OR VALUE OF MATERIALS AND FABRICATION OR  
11 OTHER PROCESSING EMPLOYED IN PRODUCING THE IMPORTED GOODS;

12 (2) THE AMOUNT FOR PROFIT AND GENERAL EXPENSES EQUAL  
13 TO THAT USUALLY REFLECTED IN THE SALE OF GOODS OF THE SAME  
14 CLASS OR KIND AS THE GOODS BEING VALUED WHICH ARE MADE BY  
15 PRODUCERS IN THE COUNTRY OF EXPORTATION FOR EXPORT TO THE  
16 PHILIPPINES;

17 (3) THE FREIGHT, INSURANCE FEES AND OTHER  
18 TRANSPORTATION EXPENSES FOR THE IMPORTATION OF THE GOODS;

19 (4) ANY ASSIST, IF ITS VALUE IS NOT INCLUDED UNDER  
20 PARAGRAPH (1) HEREOF; AND

21 (5) THE COST OF CONTAINERS AND PACKING, IF THEIR VALUES  
22 ARE NOT INCLUDED UNDER PARAGRAPH (1) HEREOF.

23 THE BUREAU OF CUSTOMS SHALL NOT REQUIRE OR COMPEL ANY  
24 PERSON NOT RESIDING IN THE PHILIPPINES TO PRODUCE FOR  
25 EXAMINATION, OR TO ALLOW ACCESS TO, ANY ACCOUNT OR OTHER  
26 RECORD FOR THE PURPOSE OF DETERMINING A COMPUTED VALUE.  
27 HOWEVER, INFORMATION SUPPLIED BY THE PRODUCER OF THE GOODS  
28 FOR THE PURPOSES OF DETERMINING THE CUSTOMS VALUE MAY BE  
29 VERIFIED IN ANOTHER COUNTRY WITH THE AGREEMENT OF THE  
30 PRODUCER AND PROVIDED THEY WILL GIVE SUFFICIENT ADVANCE  
31 NOTICE TO THE GOVERNMENT OF THE COUNTRY IN QUESTION AND THE  
32 LATTER DOES NOT OBJECT TO THE INVESTIGATION.

(F) *METHOD SIX. – FALLBACK VALUE.* – IF THE DUTIABLE VALUE CANNOT BE DETERMINED UNDER THE PRECEDING METHODS DESCRIBED ABOVE, IT SHALL BE DETERMINED BY USING OTHER REASONABLE MEANS AND ON THE BASIS OF DATA AVAILABLE IN THE PHILIPPINES.

IF THE IMPORTER SO REQUESTS, THE IMPORTER SHALL BE INFORMED IN WRITING OF THE DUTIABLE VALUE DETERMINED UNDER METHOD SIX AND THE METHOD USED TO DETERMINE SUCH VALUE.

NO DUTIABLE VALUE SHALL BE DETERMINED UNDER METHOD SIX ON THE BASIS OF:

(1) THE SELLING PRICE IN THE PHILIPPINES OF GOODS PRODUCED IN THE PHILIPPINES;

(2) A SYSTEM THAT PROVIDES FOR THE ACCEPTANCE FOR CUSTOMS PURPOSES OF THE HIGHER OF TWO ALTERNATIVE VALUES;

(3) THE PRICE OF GOODS IN THE DOMESTIC MARKET OF THE COUNTRY OF EXPORTATION;

(4) THE COST OF PRODUCTION, OTHER THAN COMPUTED VALUES, THAT HAVE BEEN DETERMINED FOR IDENTICAL OR SIMILAR GOODS IN ACCORDANCE WITH METHOD 5 HEREOF;

(5) THE PRICE OF GOODS FOR EXPORT TO A COUNTRY OTHER THAN THE PHILIPPINES;

(6) MINIMUM CUSTOMS VALUES; OR

(7) ARBITRARY OR FICTITIOUS VALUES.

IF IN THE COURSE OF DETERMINING THE DUTIABLE VALUE OF IMPORTED GOODS, IT BECOMES NECESSARY TO DELAY THE FINAL DETERMINATION OF SUCH DUTIABLE VALUE, THE IMPORTER SHALL NEVERTHELESS BE ABLE TO SECURE THE RELEASE OF THE IMPORTED GOODS UPON THE FILING OF A SUFFICIENT GUARANTEE IN THE FORM OF A SURETY BOND, A DEPOSIT, CASH OR SOME OTHER APPROPRIATE INSTRUMENT IN AN AMOUNT EQUIVALENT TO THE IMPOSABLE DUTIES AND TAXES ON THE IMPORTED GOODS IN QUESTION CONDITIONED UPON THE PAYMENT OF CUSTOMS DUTIES AND TAXES FOR WHICH THE IMPORTED GOODS MAY BE LIABLE: *PROVIDED, HOWEVER, THAT GOODS,*



1 THE IMPORTATION OF WHICH IS PROHIBITED BY LAW SHALL NOT BE  
2 RELEASED UNDER ANY CIRCUMSTANCE WHATSOEVER.

3 NOTHING IN THIS SECTION SHALL BE CONSTRUED AS  
4 RESTRICTING OR CALLING INTO QUESTION THE RIGHT OF THE  
5 COLLECTOR OF CUSTOMS TO SATISFY HIMSELF AS TO THE TRUTH OR  
6 ACCURACY OF ANY STATEMENT, DOCUMENT OR DECLARATION  
7 PRESENTED FOR CUSTOMS VALUATION PURPOSES. WHEN A  
8 DECLARATION HAS BEEN PRESENTED AND WHERE THE CUSTOMS  
9 ADMINISTRATION HAS REASON TO DOUBT THE TRUTH OR ACCURACY OF  
10 THE PARTICULARS OR OF DOCUMENTS PRODUCED IN SUPPORT OF THIS  
11 DECLARATION, THE CUSTOMS ADMINISTRATION MAY ASK THE  
12 IMPORTER TO PROVIDE FURTHER EXPLANATION, INCLUDING  
13 DOCUMENTS OR OTHER EVIDENCE, THAT THE DECLARED VALUE  
14 REPRESENTS THE TOTAL AMOUNT ACTUALLY PAID OR PAYABLE FOR  
15 THE IMPORTED GOODS, ADJUSTED IN ACCORDANCE WITH THE  
16 PROVISIONS OF SUBSECTION (A) HEREOF.

17 IF, AFTER RECEIVING FURTHER INFORMATION, OR IN THE  
18 ABSENCE OF A RESPONSE, THE CUSTOMS ADMINISTRATION STILL HAS  
19 REASONABLE DOUBTS ABOUT THE TRUTH OR ACCURACY OF THE  
20 DECLARED VALUE, IT MAY, WITHOUT PREJUDICE TO AN IMPORTER'S  
21 RIGHT TO APPEAL PURSUANT TO ARTICLE 11 OF THE WORLD TRADE  
22 ORGANIZATION AGREEMENT ON CUSTOMS VALUATION, BE DEEMED  
23 THAT THE CUSTOMS VALUE OF THE IMPORTED GOODS CANNOT BE  
24 DETERMINED UNDER METHOD ONE. BEFORE TAKING A FINAL DECISION,  
25 THE COLLECTOR OF CUSTOMS SHALL COMMUNICATE TO THE  
26 IMPORTER, IN WRITING IF REQUESTED, HIS GROUNDS FOR DOUBTING  
27 THE TRUTH OR ACCURACY OF THE PARTICULARS OR DOCUMENTS  
28 PRODUCED AND GIVE THE IMPORTER A REASONABLE OPPORTUNITY TO  
29 RESPOND. WHEN A FINAL DECISION IS MADE, THE CUSTOMS  
30 ADMINISTRATION SHALL COMMUNICATE TO THE IMPORTER IN WRITING  
31 ITS DECISION AND THE GROUNDS THEREFOR.

1 [Where the Commissioner of Customs has reason to doubt the truth  
2 or accuracy of the declaration or particulars or documents provided in  
3 support of declared value of the importation, he may require the importer  
4 to give further explanation thereof and to submit additional documents or  
5 other evidence to show that the declared value represents the total amount  
6 paid or payable for the imported goods.]

7 [If after receiving the explanation of the importer the Commissioner  
8 of Customs still has reasonable doubt as to the accuracy of the declared  
9 value, the Commissioner of Customs may proceed with the alternative  
10 methods specified hereunder, as follows:]

11 [The dutiable value shall be the transaction value of identical goods  
12 sold for export to the Philippines at or about the date of exportation of the  
13 goods being valued;]

14 [If the dutiable value cannot be determined under the preceding  
15 method, it shall be the transaction value of similar goods sold for export to  
16 the Philippines at or about the date of exportation of the goods being  
17 valued;]

18 [If the dutiable value still cannot be determined through the  
19 successive application of the two immediately preceding methods, the  
20 order of succession of the following methods may be reversed upon request  
21 of the importer unless the Commissioner of Customs deems that he will  
22 experience real difficulties in determining the dutiable value by using the  
23 computed value, in which case the Commissioner of Customs may refuse  
24 such a request subject to the provisions of the General Agreement on  
25 Tariffs and Trade (GATT) 1994 and the Uruguay Round Final Act, in  
26 which event the valuation of the imported goods shall be determined as  
27 indicated hereunder;]

1 [(1) The unit price at which the imported goods or identical or  
2 similar imported goods are sold domestically, in the same condition as  
3 when imported, in the greatest aggregate quantity, to persons not related to  
4 the seller, at or about the time of the importation of the goods being valued,  
5 subject to the applicable deductions as provided under the GATT 1994 and  
6 the Uruguay Round Final Act; or]

7 [(2) The computed value which shall be the sum of:]

8 [(a) The cost or value of raw materials employed in producing the  
9 imported good;]

10 [(b) The amount for profit and general expenses equal to the amount  
11 for profit and general expenses as reflected in the sale of goods of the same  
12 class or kind as the goods being valued which are made by producers in the  
13 country of exportation for the Philippines; and]

14 [(c) The freight, insurance fees and other transportation expenses for  
15 the importation of the goods;]

16 [If the dutiable value cannot be determined under any of the  
17 preceding methods described above, it shall be determined by using other  
18 reasonable means consistent with the principles and general provisions of  
19 GATT 1994, the agreement on the implementation of Article VII of the  
20 General Agreement on Tariffs and Trade as contained in the Uruguay  
21 Round Final Act, and on the basis of data available in the Philippines.]

22 [The correct dutiable value of the imported goods referred to above  
23 shall be ascertained by the Commissioner of Customs from reports of  
24 revenue or commercial attaches or other Philippine diplomatic officers and  
25 from such other sources of information as may be available to the Bureau  
26 of Customs. Such values shall be established and published by the  
27 Commissioner of Customs from time to time, and such values shall be

1 binding upon the importers and the Bureau of Customs until changed and  
2 new value or values are similarly established and published.]

3 [Values shall be published in at least one (1) newspaper of general  
4 circulation and other publications readily available to the public Any  
5 importer or other interested party who is dissatisfied with the published  
6 value shall have fifteen (15) days from the date of publication of such  
7 published value the opportunity to file a protest on the questioned value  
8 and the Commissioner of Customs shall resolve the protest within fifteen  
9 (15) days from receipt of such protest, either by amending the published  
10 value or retaining the same. Whatever his decision may be must likewise  
11 be published.]

12 [If, in the course of determining the dutiable value of imported  
13 goods, it becomes necessary to delay the final determination of such  
14 dutiable value, the importer may secure the release of the imported goods  
15 upon the filing of a bond which shall solely be in cash, in an amount  
16 equivalent to the imposable duties and taxes on the imported goods in  
17 question plus twenty-five percent (25%) thereof, conditioned upon the  
18 payment of customs duties and taxes for which the imported goods may be  
19 liable: *Provided, however,* That goods the importation of which is  
20 prohibited by law shall not be released under any circumstance  
21 whatsoever.]

22 [For purposes of the preceding paragraphs, the terms:]

23 [(1) "Reasonable doubt" shall refer to any condition that creates a  
24 probable cause to make the Commissioner of Customs believe in the  
25 inaccuracy of the invoice value of imported goods as reflected by the  
26 importer in his customs declaration, for valuation purposes. Such  
27 condition may include but is not limited to any of the following situations:]

1           [(a) If the sale or price is subject to some consideration for which a  
2 value cannot be determined with respect to the goods being valued such  
3 as:]

4           [(i) When the seller fixes the price of the imported goods on  
5 condition that the buyer will also buy other goods in specified quantities;]

6           [(ii) When the price of the imported goods is dependent upon the  
7 price or prices at which the buyer of the imported goods sells other goods  
8 to the seller;]

9           [(iii) When the price is established on the basis of a form of  
10 payment extraneous to the imported goods, such as where the imported  
11 goods are semi-finished goods which have been provided by the seller on  
12 the condition that he will receive a specified quantity of finished goods;]

13           [(b) Or, if part of the proceeds of any subsequent resale, disposal or  
14 use of the goods by the buyer will accrue directly or indirectly to the seller,  
15 unless an appropriate adjustment can be made in accordance with the  
16 provisions of Article 8 of the agreement in the implementation of Article  
17 VII of the General Agreement on Tariffs and Trade as contained in the  
18 Uruguay Round Final Act; and]

19           [(c) If the buyer and the seller are related to one another, and such  
20 relationship influenced the price of the goods. Such persons shall be  
21 deemed related if:]

22           [(i) They are officers or directors of one another's businesses;]

23           [(ii) They are legally recognized partners in business;]

24           [(iii) They are employer and employee;]

25           [(iv) Any person directly or indirectly owns, controls or holds five  
26 percent (5%) or more of the outstanding voting stock or shares of both  
27 seller and buyer;]

1 [(v) One of them directly or indirectly controls the other;]

2 [(vi) Both of them are directly or indirectly controlled by a third  
3 person;]

4 [(vii) Together they directly or indirectly control a third person; or]

5 [(viii) They are members of the same family including brothers and  
6 sisters, (whether by whole or half blood), spouse, ancestors, and lineal  
7 descendants.]

8 [(2) "Identical goods" shall mean goods which are the same in all  
9 respects, including physical characteristics, quality and reputation. Minor  
10 differences in appearances shall not preclude goods otherwise conforming  
11 to the definition from being regarded as identical.]

12 [(3) "Similar goods" shall mean goods which although not alike in  
13 all respects, have like characteristics and like component materials which  
14 enable them to perform the same functions and to be commercially  
15 interchangeable. The quality of the goods, their reputation and the  
16 existence of a trademark shall be among the factors to be considered in  
17 determining whether goods are similar.]

18 [*Transitory Provisions.* – Upon the effectivity of this Act and until  
19 such time when the Congress authorizes the shift to transaction value  
20 before January 1, 2000 as provided under Section 3 of this Act, the  
21 dutiable value of an imported article subject to an *ad valorem* rate of duty  
22 shall be based on the export value at which, at the time of exportation, the  
23 same or identical, like, or similar article is freely offered for sale in the  
24 principal export markets of the exporting country for exportation to the  
25 Philippines, in the usual wholesale quantities and in the ordinary course of  
26 trade (excluding internal excise taxes to be remitted or rebated) or where  
27 there is none on such date, then on the export value nearest to the date of  
28 exportation, including the value of all containers, coverings and/or

1 packings of any kind and all other expenses, costs and charges incident to  
2 placing the article in a condition ready for shipment to the Philippines, and  
3 freight, as well as insurance premium covering the transportation of such  
4 articles to the port of entry in the Philippines.]

5 [Where the export value of the article cannot be ascertained thereat  
6 or where there exists a reasonable doubt as to the fairness of such value,  
7 then the export value of the article for exportation to the Philippines shall  
8 be the export value of the article in the principal export markets of the  
9 country of manufacture or origin, if such country is not the country of  
10 exportation.]

11 [Where the export value of the article cannot be ascertained thereat  
12 or there exists a reasonable doubt as to the fairness of such value, then the  
13 export value of the article shall be the export value of such article for  
14 exportation to the Philippines in any third country with the same stage of  
15 economic development as the country of exportation.]

16 [Where the dutiable value cannot be ascertained as provided in the  
17 preceding paragraphs, or where there exists a reasonable doubt as to the  
18 dutiable value of the imported article declared in the entry, the dutiable  
19 value shall be the domestic wholesale selling price of such or similar article  
20 in Metro Manila or other principal markets in the Philippines on the date  
21 the duty becomes payable on the article under appraisement, in the usual  
22 wholesale quantities and in the ordinary course of trade, minus:]

23 [(a) Not more than twenty-five percent (25% of the domestic  
24 wholesale selling price for expenses and profits; and]

25 [(b) Duties and taxes paid thereon.]

26 [The correct dutiable value of imported articles shall be ascertained  
27 by the Commissioner of Customs using for that purpose reports of Revenue  
28 or Commercial Attaches or other Philippine diplomatic officers or such

1 other sources of information that may be available to the Bureau of  
2 Customs. Such values shall be published from time to time.]

3 [Values shall be published in a manner that will make them readily  
4 available to the public. Any importer or other interested party who is  
5 dissatisfied with the published value shall have fifteen (15) days from the  
6 date of publication of such published values the opportunity to file protest  
7 on the questioned value, and the Commissioner of Customs shall resolve  
8 the protest within fifteen (15) days from such protest either by amending  
9 the published value or retaining the same. Whatever his decision may be  
10 must likewise be published.]

11 [If, in the course of determining the dutiable value of imported  
12 goods, it becomes necessary to delay the final determination of such  
13 dutiable value, the importer may secure the release of the imported articles  
14 upon the filing of a bond which shall solely be in cash in an amount  
15 equivalent of the imposable duties and taxes on the imported goods in  
16 question plus twenty-five percent (25%) thereof, conditioned upon the  
17 payment of customs duties and taxes for which the imported goods may be  
18 liable: *Provided, however,* That imported goods the importation of which  
19 is prohibited by law shall not be released under any circumstances  
20 whatsoever.]

21 [In the interest of national economy, general welfare and/or national  
22 security, the Congress shall, upon the recommendation of the President, by  
23 joint resolution, order the shift to transaction value, as provided under  
24 Section 1 of this Act, as the basis of dutiable value of an imported article  
25 subject to an *ad valorem* rate of duty even before January 1, 2000.]

26 [The Secretary of Finance shall, upon the recommendation of the  
27 Commissioner of Customs, promulgate the necessary rules and regulations  
28 for the effective implementation of this Act.]



1 [The Commissioner of Customs may delegate his power to  
2 determine dutiable values and to release imported goods under cash bond  
3 as provided in this law in cases where there are no established and  
4 published values covering the importation: *Provided*, That in such cases,  
5 the Collector of Customs concerned shall immediately render a complete  
6 report to the Commissioner of Customs and the latter shall, without delay,  
7 establish and publish the correct dutiable value or values for the  
8 importation, after which all Collectors of Customs shall be guided  
9 accordingly in the assessment of import duties and taxes on similar or like  
10 importations.]

11 [The Commissioner of Customs shall create such body or bodies to  
12 receive and hear protests regarding published values. Such body or bodies  
13 shall hear and receive the evidence and shall submit its or their  
14 recommendations to the Commissioner of Customs. The hearing body  
15 shall submit its report in writing and shall convey to all interested parties  
16 whatever decision reached by the Commissioner thereon. During the  
17 effectivity of any published values, any interested party may petition the  
18 Commissioner of Customs for a review of the published value for the  
19 purpose of raising or lowering such value.]”

20 SEC. 2. Section 1302 of Part 2, Title IV of the Tariff and Customs  
21 Code of the Philippines, as amended, is hereby further amended to read as  
22 follows:

23 “SEC. 1302. *Import Entries.* – All imported articles, except  
24 importations admitted free of duty under Subsection “k”, Section one  
25 hundred and five of this Code, shall be subject to a formal or informal  
26 entry. Articles of a commercial nature intended for sale, barter or hire, the  
27 dutiable value of which is Two thousand pesos (P2,000.00) or less, and  
28 personal and household effects or articles, not in commercial quantity,  
29 imported in passenger’s baggage, mail or otherwise, for personal use, shall

69

1 be cleared on an informal entry whenever duty, tax or other charges are  
2 collectible.

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

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

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

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

12 (c) Constructive warehousing and immediate exportation.

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

16 **ALL IMPORTATIONS ENTERED UNDER FORMAL ENTRY SHALL BE**  
17 **COVERED BY A LETTER OF CREDIT."**

18 SEC. 3. A new section to be known as Section 2317 is hereby  
19 inserted under Part 2, Title VI of the Tariff and Customs Code of the  
20 Philippines, as amended, which shall read as follows:

21 **"SEC. 2317. GOVERNMENT'S RIGHT OF COMPULSORY**  
22 **ACQUISITION. - IN ORDER TO PROTECT GOVERNMENT REVENUES**  
23 **AGAINST THE UNDERVALUATION OF GOODS SUBJECT TO AD VALOREM**  
24 **DUTY, THE COMMISSIONER OF CUSTOMS MAY ACQUIRE IMPORTED**  
25 **GOODS UNDER QUESTION FOR A PRICE EQUAL TO THEIR DECLARED**  
26 **CUSTOMS VALUE PLUS ANY DUTIES ALREADY PAID ON THE GOODS,**  
27 **PAYMENT FOR WHICH SHALL BE MADE WITHIN TEN (10) WORKING DAYS**  
28 **FROM ISSUANCE OF A WARRANT SIGNED BY THE COMMISSIONER OF**  
29 **CUSTOMS FOR THE ACQUISITION OF SUCH GOODS.**

1           AN IMPORTER WHO IS DISSATISFIED WITH A DECISION OF THE  
2 COMMISSIONER OF CUSTOMS PERTAINING TO THIS SECTION MAY,  
3 WITHIN TWENTY (20) WORKING DAYS AFTER THE DATE ON WHICH  
4 NOTICE OF THE DECISION IS GIVEN, APPEAL TO THE SECRETARY OF  
5 FINANCE AND THEREAFTER IF STILL DISSATISFIED, TO THE COURT OF  
6 TAX APPEALS AS PROVIDED FOR IN SECTION 2402 OF THE TARIFF AND  
7 CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED.

8           WHERE NO APPEAL IS MADE BY THE IMPORTER, OR UPON  
9 REAFFIRMATION OF THE COMMISSIONER'S DECISION DURING THE  
10 APPEALS PROCESS, THE BUREAU OF CUSTOMS OR ITS AGENT SHALL  
11 SELL THE ACQUIRED GOODS PURSUANT TO EXISTING LAWS AND  
12 REGULATIONS.

13           NOTHING IN THIS SECTION LIMITS OR AFFECTS ANY OTHER  
14 POWERS OF THE BUREAU OF CUSTOMS WITH RESPECT TO THE  
15 DISPOSITION OF THE GOODS OR ANY LIABILITY OF THE IMPORTER OR  
16 ANY OTHER PERSON WITH RESPECT TO AN OFFENSE COMMITTED IN THE  
17 IMPORTATION OF THE GOODS."

18           SEC. 4. Section 2606 of Part 5, Title VI of the Tariff and Customs  
19 Code of the Philippines, as amended, is hereby further amended to read as  
20 follows:

21           "SEC. 2606. *Disposition of Surplus from the Proceeds of Sale of*  
22 *Abandoned or Forfeited OR ACQUIRED Articles.* – Except in the case of the  
23 sale of abandoned or forfeited articles, and [all] articles which are not  
24 claimed by payment of duties, taxes and other charges and compliance with  
25 all legal requirements within the prescribed period, any surplus remaining  
26 after the satisfaction of all unlawful charges as aforesaid shall be retained  
27 by the Collector for ten (10) days subject to the call of the owner.

28           "Upon [the] failure of the owner to claim such surplus within this  
29 period, the Collector shall deposit such amount [with the Treasurer of the  
30 Philippines as a special deposit, to be paid to the proper claimant

1 demanding the same within one year thereafter, upon such evidence and in  
2 such manner as the Commission on Audit shall prescribe] IN A SPECIAL  
3 TRUST FUND WHICH SHALL BE USED SOLELY FOR THE PURPOSE OF  
4 FINANCING THE COMPULSORY ACQUISITION OF IMPORTED GOODS BY  
5 THE GOVERNMENT AS PROVIDED IN SECTION 2317 HEREOF.

6 "In all such cases the Collector shall report fully his action in the  
7 matter, together with all the particulars, to the Commissioner and to the  
8 Chairman on Audit. After one year, [all unclaimed special deposits shall  
9 be considered by the Bureau of Treasury as customs receipts,] THE  
10 UNUSED AMOUNTS IN SUCH SPECIAL TRUST FUNDS, EXCEPT FOR AN  
11 AMOUNT NECESSARY TO FINANCE FORCED GOVERNMENT ACQUISITIONS  
12 BEFORE THE FIRST AUCTION OF THE SUCCEEDING YEAR, SHALL BE  
13 TURNED OVER TO THE BUREAU OF TREASURY AS CUSTOMS RECEIPTS."

14 SEC. 5. A new section to be known as Section 3514 is hereby  
15 inserted in Part 2, Title VII of the Tariff and Customs Code of the  
16 Philippines, as amended, which shall read as follows:

17 "SEC. 3514. *REQUIREMENT TO KEEP RECORDS.* - ALL  
18 IMPORTERS ARE REQUIRED TO KEEP AT THEIR PRINCIPAL PLACE OF  
19 BUSINESS, IN THE MANNER PRESCRIBED BY REGULATIONS TO BE ISSUED  
20 BY THE COMMISSIONER OF CUSTOMS AND FOR A PERIOD OF THREE (3)  
21 YEARS FROM THE DATE OF IMPORTATION, ALL THE RECORDS OF THEIR  
22 IMPORTATIONS AND/OR BOOKS OF ACCOUNTS, BUSINESS AND COMPUTER  
23 SYSTEMS AND ALL CUSTOMS COMMERCIAL DATA INCLUDING PAYMENT  
24 RECORDS RELEVANT FOR THE VERIFICATION OF THE ACCURACY OF THE  
25 TRANSACTION VALUE DECLARED BY THE IMPORTERS/CUSTOMS  
26 BROKERS ON THE IMPORT ENTRY.

27 ALL BROKERS ARE REQUIRED TO KEEP AT THEIR PRINCIPAL  
28 PLACE OF BUSINESS, IN THE MANNER PRESCRIBED BY REGULATIONS TO  
29 BE ISSUED BY THE COMMISSIONER OF CUSTOMS AND FOR A PERIOD OF  
30 THREE (3) YEARS FROM THE DATE OF IMPORTATION COPIES OF THE

1 ABOVE MENTIONED RECORDS COVERING TRANSACTIONS THAT THEY  
2 HANDLE.”

3 SEC. 6. A new section to be known as Section 3515 is hereby  
4 inserted in Part 2, Title VII of the Tariff and Customs Code of the  
5 Philippines, as amended, which shall read as follows:

6 “SEC. 3515. *AUDIT OR EXAMINATION OF RECORDS.* – THE  
7 IMPORTERS/CUSTOMS BROKERS SHALL ALLOW ANY CUSTOMS OFFICER  
8 AUTHORIZED BY THE BUREAU OF CUSTOMS TO ENTER DURING OFFICE  
9 HOURS ANY PREMISES OR PLACE WHERE THE RECORDS REFERRED TO IN  
10 THE PRECEDING SECTION ARE KEPT TO CONDUCT AUDIT EXAMINATION,  
11 INSPECTION, VERIFICATION AND/OR INVESTIGATION OF THOSE RECORDS  
12 EITHER IN RELATION TO SPECIFIC TRANSACTIONS OR TO THE ADEQUACY  
13 AND INTEGRITY OF THE MANUAL OR ELECTRONIC SYSTEM OR SYSTEMS  
14 BY WHICH SUCH RECORDS ARE CREATED AND STORED. FOR THIS  
15 PURPOSE, A DULY AUTHORIZED CUSTOMS OFFICER SHALL HAVE FULL  
16 AND FREE ACCESS TO ALL BOOKS, RECORDS, AND DOCUMENTS  
17 NECESSARY OR RELEVANT FOR THE PURPOSE OF COLLECTING THE  
18 PROPER DUTIES AND TAXES.

19 IN ADDITION, THE AUTHORIZED CUSTOMS OFFICER MAY MAKE  
20 COPIES OF, OR TAKE EXTRACTS FROM ANY SUCH DOCUMENTS. THE  
21 RECORDS OR DOCUMENTS MUST, AS SOON AS PRACTICABLE AFTER  
22 COPIES OF SUCH HAVE BEEN TAKEN, BE RETURNED TO THE PERSON  
23 OTHERWISE ENTITLED TO THEM.

24 A COPY OF ANY SUCH DOCUMENT CERTIFIED BY OR ON BEHALF  
25 OF THE IMPORTER/BROKER IS ADMISSIBLE IN EVIDENCE IN ALL COURTS  
26 AS IF IT WERE THE ORIGINAL.

27 AN AUTHORIZED CUSTOMS OFFICER IS NOT ENTITLED TO ENTER  
28 ANY PREMISES UNDER THIS SECTION UNLESS, BEFORE SO DOING, THE  
29 OFFICER PRODUCES TO THE PERSON OCCUPYING OR APPARENTLY IN  
30 CHARGE OF THE PREMISES WRITTEN EVIDENCE OF THE FACT THAT HE  
31 OR SHE IS AN AUTHORIZED OFFICER. THE PERSON OCCUPYING OR  
32 APPARENTLY IN CHARGE OF THE PREMISES ENTERED BY AN OFFICER

1 SHALL PROVIDE THE OFFICER WITH ALL REASONABLE FACILITIES AND  
2 ASSISTANCE FOR THE EFFECTIVE EXERCISE OF POWERS UNDER THIS  
3 SECTION.

4 UNLESS OTHERWISE PROVIDED HEREIN OR IN OTHER PROVISIONS  
5 OF LAW, THE BUREAU OF CUSTOMS MAY, IN CASE OF DISOBEDIENCE,  
6 INVOKE THE AID OF THE PROPER REGIONAL TRIAL COURT WITHIN  
7 WHOSE JURISDICTION THE MATTER FALLS. THE COURT MAY PUNISH  
8 CONTUMACY OR REFUSAL AS CONTEMPT. IN ADDITION, THE FACT THAT  
9 THE IMPORTER/BROKER DENIES THE AUTHORIZED CUSTOMS OFFICER  
10 FULL AND FREE ACCESS TO IMPORTATION RECORDS DURING THE  
11 CONDUCT OF A POST-ENTRY AUDIT SHALL CREATE A PRESUMPTION OF  
12 INACCURACY IN THE TRANSACTION VALUE DECLARED FOR THEIR  
13 IMPORTED GOODS AND CONSTITUTE GROUNDS FOR THE BUREAU OF  
14 CUSTOMS TO CONDUCT A RE-ASSESSMENT OF SUCH GOODS.

15 THIS IS WITHOUT PREJUDICE TO THE CRIMINAL SANCTIONS  
16 IMPOSED BY THIS CODE AND ADMINISTRATIVE SANCTIONS THAT THE  
17 BUREAU OF CUSTOMS MAY IMPOSE AGAINST CONTUMACIOUS  
18 IMPORTERS UNDER EXISTING LAWS AND REGULATIONS INCLUDING THE  
19 AUTHORITY TO HOLD DELIVERY OR RELEASE OF THEIR IMPORTED  
20 ARTICLES."

21 SEC. 7. A new Section to be known as Section 3516 is hereby  
22 inserted in Part 2, Title VII of the Tariff and Customs Code of the  
23 Philippines, as amended, which shall read as follows:

24 "SEC. 3516. *SELECTION OF FIRMS TO BE AUDITED.* - THE  
25 COMMISSIONER OF CUSTOMS, SUBJECT TO THE APPROVAL OF THE  
26 SECRETARY OF FINANCE, SHALL, AS FAR AS PRACTICABLE, FORMULATE  
27 A SYSTEM OF SELECTING FIRMS TO BE AUDITED BASED ON AN  
28 OBJECTIVE SET OF CRITERIA. THE CRITERIA SHALL INCLUDE, BUT NOT  
29 BE LIMITED TO, THE FOLLOWING:

30 (A) RELATIVE MAGNITUDE OF CUSTOMS REVENUE FROM THE  
31 FIRM;

32 (B) THE RATES OF DUTIES OF THE FIRM'S IMPORTS;

(C) THE EXISTENCE OF COMPETING LOCALLY-PRODUCED PRODUCTS IN THE MARKET;

(D) THE COMPLIANCE TRACK RECORD OF THE FIRM; AND

(E) AN ASSESSMENT OF THE RISK TO REVENUE OF THE FIRM'S IMPORT ACTIVITIES."

SEC. 8. A new Section to be known as Section 3517 is hereby inserted in Part 2, Title VII of the Tariff and Customs Code of the Philippines, as amended, which shall read as follows:

"SEC. 3517. *SCOPE OF THE AUDIT.* – THE AUDIT OF IMPORTERS SHALL BE UNDERTAKEN ONLY WHEN FRAUD OR UNDERVALUATION IS SUSPECTED OR FOR PURPOSES OF AVAILING OF PRIVILEGES WHICH ALLOW FACILITY IN THE PROCESSING OF THE IMPORT SHIPMENT. WHEN FRAUD OR UNDERVALUATION IS SUSPECTED, THE AUDIT SHALL BE LIMITED TO THE DOCUMENTS RELATING TO SUSPECT SHIPMENT/S, EXCEPT IN CASES WHERE THE COMMISSIONER DEEMS IT NECESSARY TO AUDIT DOCUMENTS RELATING TO OTHER SHIPMENTS IN ORDER TO DETERMINE THE EXISTENCE OF FRAUD OR UNDERVALUATION IN THE SUSPECT SHIPMENTS.

AUDIT FOR PURPOSES OF AVAILING OF PRIVILEGES WHICH ALLOW FACILITY IN PROCESSING (SUCH AS GREEN LANE RELEASE) SHALL BE UPON THE INSTANCE OF THE IMPORTER, WHO SHALL SUBMIT A WRITTEN REQUEST TO THE COMMISSIONER.

CUSTOMS BROKERS SHALL BE AUDITED TO VALIDATE AUDITS OF THEIR IMPORTER CLIENTS AND/OR FILL IN INFORMATION GAPS REVEALED DURING AN AUDIT OF THEIR IMPORTER CLIENTS."

SEC. 9. A new section to be known as Section 3518 is hereby inserted in Part 2, Title VII of the Tariff and Customs Code of the Philippines, as amended, which shall read as follows:

"SEC. 3518. *DOCUMENTS IN FOREIGN LANGUAGE.* – WHERE A DOCUMENT IN A FOREIGN LANGUAGE IS PRESENTED TO A CUSTOMS OFFICER IN RELATION TO THE CARRYING OUT OF ANY DUTY OR THE

1 EXERCISE OF ANY POWER OF THE BUREAU OF CUSTOMS UNDER THIS  
2 CODE, SAID DOCUMENT IN A FOREIGN LANGUAGE MUST BE  
3 ACCOMPANIED WITH A TRANSLATION IN THE OFFICIAL LANGUAGE OF  
4 THIS COUNTRY."

5 SEC. 10. A new Section to known as Section 3519 is hereby  
6 inserted in Part 2, Title VII of the Tariff and Customs Code of the  
7 Philippines, as amended, which shall read as follows:

8 "SEC. 3519. *RECORDS TO BE KEPT BY CUSTOMS. – THE BUREAU*  
9 *OF CUSTOMS SHALL LIKEWISE KEEP A RECORD OF AUDIT RESULTS IN A*  
10 *DATABASE OF IMPORTER AND BROKER PROFILES, TO INCLUDE BUT NOT*  
11 *BE LIMITED TO:*

12 (A) ARTICLES OF INCORPORATION;

13 (B) THE COMPANY STRUCTURE, WHICH SHALL INCLUDE BUT NOT  
14 BE LIMITED TO:

15 (1) INCORPORATORS AND BOARD OF DIRECTORS;

16 (2) KEY OFFICERS; AND

17 (3) ORGANIZATIONAL STRUCTURE;

18 (C) KEY IMPORTATIONS;

19 (D) PRIVILEGES ENJOYED;

20 (E) PENALTIES; AND

21 (F) RISK CATEGORY (IES)."

22 SEC. 11. A new section to be known as Section 3610 is hereby  
23 inserted in Part 3, Title VII of the Tariff and Customs Code of the  
24 Philippines, as amended, which shall read as follows:

25 "SEC. 3610. *FAILURE TO KEEP IMPORTATION RECORDS AND*  
26 *GIVE FULL ACCESS TO CUSTOMS OFFICERS. – ANY PERSON WHO FAILS*  
27 *TO KEEP ALL THE RECORDS OF IMPORTATIONS AND/OR BOOKS OF*  
28 *ACCOUNTS, BUSINESS AND COMPUTER SYSTEMS AND ALL CUSTOMS*  
29 *COMMERCIAL DATA IN THE MANNER PRESCRIBED IN PART 2, SECTION*  
30 *3514 OF THIS TITLE SHALL BE PUNISHED WITH A FINE OF NOT LESS THAN*  
31 *ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT MORE THAN*



1 TWO HUNDRED THOUSAND PESOS (P200,000.00) AND/OR IMPRISONMENT  
2 OF NOT LESS THAN TWO (2) YEARS AND ONE DAY BUT NOT MORE THAN  
3 SIX (6) YEARS. THIS PENALTY SHALL LIKEWISE BE IMPOSED AGAINST  
4 IMPORTERS/BROKERS WHO DENY AN AUTHORIZED CUSTOMS OFFICER  
5 FULL AND FREE ACCESS TO SUCH RECORDS, BOOKS OF ACCOUNTS,  
6 BUSINESS AND COMPUTER SYSTEMS, AND ALL CUSTOMS COMMERCIAL  
7 DATA INCLUDING PAYMENT RECORDS. THIS IS WITHOUT PREJUDICE TO  
8 THE ADMINISTRATIVE SANCTIONS THAT THE BUREAU OF CUSTOMS MAY  
9 IMPOSE AGAINST THE CONTUMACIOUS IMPORTERS UNDER EXISTING  
10 LAWS AND REGULATIONS INCLUDING THE AUTHORITY TO HOLD  
11 DELIVERY OR RELEASE OF THEIR IMPORTED ARTICLES."

12 SEC. 12. A new section to be known as Section 3611 is hereby  
13 inserted in Part 3, Title VII of the Tariff and Customs Code of the  
14 Philippines, as amended, which shall read as follows:

15 "SEC. 3611. *FAILURE TO PAY CORRECT DUTIES AND TAXES ON*  
16 *IMPORTED GOODS.* - ANY PERSON WHO, AFTER BEING SUBJECTED TO  
17 POST-ENTRY AUDIT AND EXAMINATION AS PROVIDED IN SECTION 3515  
18 OF PART 2, TITLE VII HEREOF, IS FOUND TO HAVE INCURRED  
19 DEFICIENCIES IN DUTIES AND TAXES PAID FOR IMPORTED GOODS, SHALL  
20 BE PENALIZED ACCORDING TO THREE (3) DEGREES OF CULPABILITY  
21 SUBJECT TO ANY MITIGATING, AGGRAVATING OR EXTRAORDINARY  
22 FACTORS THAT ARE CLEARLY ESTABLISHED BY THE AVAILABLE  
23 EVIDENCE:

24 (A) *NEGLIGENCE* - WHEN A DEFICIENCY RESULTS FROM AN  
25 OFFENDER'S FAILURE, THROUGH AN ACT OR ACTS OF OMISSION OR  
26 COMMISSION, TO EXERCISE REASONABLE CARE AND COMPETENCE TO  
27 ENSURE THAT A STATEMENT MADE IS CORRECT, IT SHALL BE  
28 DETERMINED TO BE NEGLIGENT AND PUNISHABLE BY A FINE  
29 EQUIVALENT TO NOT LESS THAN ONE-HALF (1/2) BUT NOT MORE THAN  
30 TWO (2) TIMES THE REVENUE LOSS.

(B) *GROSS NEGLIGENCE* – WHEN A DEFICIENCY RESULTS FROM AN ACT OR ACTS OF OMISSION OR COMMISSION DONE WITH ACTUAL KNOWLEDGE OR WANTON DISREGARD FOR THE RELEVANT FACTS AND WITH INDIFFERENCE TO OR DISREGARD FOR THE OFFENDER'S OBLIGATION UNDER THE STATUTE, IT SHALL BE DETERMINED TO BE GROSSLY NEGLIGENT AND PUNISHABLE BY A FINE EQUIVALENT TO NOT LESS THAN TWO AND A HALF (2 ½) BUT NOT MORE THAN FOUR (4) TIMES THE REVENUE LOSS.

(C) *FRAUD* – WHEN THE MATERIAL FALSE STATEMENT OR ACT IN CONNECTION WITH THE TRANSACTION WAS COMMITTED OR OMITTED KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE, IT SHALL BE DETERMINED TO BE FRAUDULENT AND BE PUNISHABLE BY A FINE EQUIVALENT TO NOT LESS THAN FIVE (5) TIMES BUT NOT MORE THAN EIGHT (8) TIMES THE REVENUE LOSS AND IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT MORE THAN EIGHT (8) YEARS.

THE DECISION OF THE COMMISSIONER OF CUSTOMS, UPON PROPER HEARING, TO IMPOSE PENALTIES AS PRESCRIBED IN THIS SECTION MAY BE APPEALED IN ACCORDANCE WITH SECTION 2402 HEREOF.”

SEC. 13. The following provisions of the Tariff and Customs Code of the Philippines, as amended, are renumbered as follows:

(a) Section 3514 of Part 2, Title VII (“Words and Phrases Defined”) is renumbered as Section 3520; and

(b) Section 3610 of Part 3, Title VII (“Violations of Tariff and Customs Laws and Regulations in General”) is renumbered as Section 3612.

SEC. 14. *Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs, promulgate the necessary rules and regulations for the effective implementation of this Act.

1           SEC. 15. *Repealing Clause.* – All laws, decrees, executive orders,  
2 rules and regulations and other issuances or parts thereof which are  
3 inconsistent with this Act are hereby repealed or modified accordingly.

4           SEC. 16. *Effectivity.* – This Act shall take effect on January 1, 2000.

Approved,

O