

RECORD OF THE SENATE

TUESDAY, DECEMBER 1, 1998

ROLLCALL

OPENING OF THE SESSION

At 3:15 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 40th session of the First Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Sergio R. Osmeña III.

Everybody rose for the prayer.

PRAYER

Senator Osmeña III. Almighty Father,

Look down upon us this day. You are our guide and our protector as we stumble through the dark towards an uncertain future.

O Lord, how swiftly have the days passed us by. A few months ago, we commenced the work of this Congress, full of hopes of what we could accomplish for our country and our people. Now, as the year end approaches, much of our work remains undone.

Light as many fires in our hearts as are needed to make us realize the irreplaceable value of every hour, every minute.

Lord, beyond these halls are millions who suffer from hunger and deprivation; children with no future, and victims who cry out for justice. They all look to us for succor, help and deliverance. Fill us, Lord, with a greater sense of the urgency, so that we may face the challenges before us with greater boldness and audacity.

Father, even as we confront the stark realities of this troubled world, let all the things to which our hearts go out be beautified by Your love.

Give us the light to see Your will, the courage to accept it, and the strength to do it.

We ask You this in the name of Christ our Lord.

Amen.

The President. Thank you, Senator Osmeña.

The Secretary will please call the roll.

The Secretary, reading:

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| Senator Teresa Aquino-Oreta | Present |
| Senator Robert Z. Barbers | Present*** |
| Senator Rodolfo G. Biazon | Present |
| Senator Renato L. Compañero Cayetano ... | Present |
| Senator Anna Dominique M.L. Coseteng ... | Present* |
| Senator Franklin M. Drilon | Present |
| Senator Juan Ponce Enrile | Present |
| Senator Juan M. Flavir | Present |
| Senator Teofisto T. Guingona Jr. | Present |
| Senator Gregorio B. Honasan | Present |
| Senator Robert S. Jaworski | Present |
| Senator Loren B. Legarda-Leviste | Present |
| Senator Ramon B. Magsaysay Jr. | Present* |
| Senator Blas F. Ople | Present |
| Senator John Henry R. Osmeña | ** |
| Senator Sergio R. Osmeña III | Present |
| Senator Aquilino Q. Pimentel Jr. | Present |
| Senator Ramon B. Revilla | Absent |
| Senator Raul S. Roco | Present |
| Senator Miriam Defensor Santiago | Present* |
| Senator Vicente C. Sotto III | Absent |
| Senator Francisco S. Tatad | Present* |
| The President | Present |

The President. With 15 senators present, there is a quorum.

THE JOURNAL

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

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

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

* Arrived after the roll call

** On official mission

*** On official mission but arrived after the roll call

The President. Referred to the Committees on Local Government; and National Defense and Security

The Secretary. Resolution No. 98-59, current series, of the *Sangguniang Bayan* of Odiongan, Romblon, supporting the approval of House Bill No. 3265 which seeks to convert the Romblon State College (RSC) to Romblon State University (RSU).

The President. Referred to the Committee on Education, Arts and Culture

The Majority Leader is recognized.

**RESOLUTION ON SECOND READING
S. Jt. Res. No. 7 - Increasing Daily Subsistence
Allowance of all Uniformed Personnel
(Continuation)**

Senator Drilon. Mr. President, I move that we resume consideration of the debates on Senate Joint Resolution No. 7 as reported out under Committee Report No. 10. This is the proposed joint resolution expressing the sense of Congress to increase the daily subsistence allowance of all officers, enlisted personnel, et cetera.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Joint Resolution No. 7 is now in order.

Senator Drilon. May we ask the Chair to recognize Sen. Rodolfo Biazon, the author of the resolution.

The President. Senator Biazon, the author, is recognized.

Senator Drilon. We are now in the period of committee amendments. May we know from the principal author if there are committee amendments.

Senator Biazon. Mr. President, the committee does not offer any committee amendments.

Senator Drilon. We therefore move to close the period of committee amendments.

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

Senator Drilon. We are now in the period of individual amendments. Our colleagues have not indicated any proposed individual amendments. May we therefore move that we close the period of individual amendments.

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

APPROVAL OF S. JT. RES. NO. 7 ON SECOND READING

Senator Drilon. Mr. President, I move that we vote on Second Reading on Senate Joint Resolution No. 7.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Joint Resolution No. 7.

As many as are in favor of the resolution, say *aye*.

Several Members. *Aye*.

The President. As many as are against the resolution, say *nay*. *[Silence]*

Senate Joint Resolution No. 7 is approved on Second Reading.

Senator Biazon. Thank you, Mr. President.

SPECIAL ORDERS

Senator Drilon. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 11 on Senate Bill No. 1330, entitled

AN ACT TO PROVIDE THE RULES FOR THE
IMPOSITION OF COUNTERVAILING DUTIES ON
THE IMPORTATION OF SUBSIDIZED
PRODUCTS, COMMODITIES OR ARTICLES OF
COMMERCE AMENDING FOR THE PURPOSE
SECTION 302 OF THE TARIFF AND CUSTOMS
CODE, AS AMENDED, AND FOR OTHER
PURPOSES.

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

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

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

It was 3:28 p.m. when the session was adjourned.

RESUMPTION OF SESSION

At 3:30 p.m., the session was resumed.

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

BILL ON SECOND READING

S. No. 1330 - Imposition of Countervailing Duties

Senator Drilon. Mr. President, I move that we consider Senate Bill No. 1330, as reported out under Committee Report No. 11.

The President. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 1330 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 full text thereof.

The Secretary. Senate Bill No. 1330, entitled

AN ACT TO PROVIDE THE RULES FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON THE IMPORTATION OF SUBSIDIZED PRODUCTS, COMMODITIES OR ARTICLES OF COMMERCE, AMENDING FOR THE PURPOSE SECTION 302 OF THE TARIFF AND CUSTOMS CODE, AS AMENDED, AND FOR OTHER PURPOSES

The following is the full text of the bill:

Senate Bill No. 1330

AN ACT TO PROVIDE THE RULES FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON THE IMPORTATION OF SUBSIDIZED PRODUCTS, COMMODITIES OR ARTICLES OF COMMERCE, AMENDING FOR THE PURPOSE SECTION 302 OF THE TARIFF AND CUSTOMS CODE, AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION 1. Section 302 of the Tariff and Customs Code as amended is hereby further amended as follows:

"Section 302. Countervailing Duty

"[a. Whenever any article is directly or indirectly granted any bounty, subsidy or subvention upon its production, manufacture or exportation in the country of origin and/or exportation and the importation of which has been determined by the Secretary, after investigation and report of the Commission, is likely to injure an established industry in the Philippines, there shall be levied a countervailing duty equal to the ascertained or estimated amount of such bounty, subsidy or subvention: *Provided*, That the injury criterion to a domestic industry shall be applied only in the case of imports from countries which adhere to the GATT Code on Subsidies and Countervailing Duties: *Provided, further*, That the exemption of any exported article from duty or tax imposed on like articles when destined for consumption in the country of origin and/or exportation or the refunding of such duty or tax, shall not be deemed to constitute a grant of a bounty, subsidy or subvention within the meaning of this subsection: *Provided, furthermore*, That should an article be allowed drawback by the country of origin and/or exportation, only the ascertained or estimated excess of the amount of the drawback over the total amount of duties and/or internal taxes, if any, shall constitute a bounty, subsidy or subvention: *Provided, finally*, That petitions for imposition of countervailing duty shall be filed with the Secretary of Finance. Upon finding of a *prima facie* case of bounty, subsidy or subvention enjoyed by the imported article and injury to, or likelihood of injury to a domestic industry, the Secretary shall refer the case to the Tariff Commission for investigation and shall instruct the Commissioner of Customs to require the filing of countervailing bonds for importation entered during the pendency of countervailing proceedings;]

"[b. The Secretary shall after receipt of the reports of the Commission, decide whether the article in question is granted any bounty, subsidy or subvention and if so fix the countervailing duty equal to the ascertained or estimated bounty, subsidy or subvention. He shall give due notice of his decision and shall direct the Commissioner of Customs to cause the countervailing duty to be levied, collected and paid addition to any ordinary duties, taxes

and charges imposed by law on such articles and on articles of the same specific kind of class subsequently imported under similar circumstances;]

"[c. Pending investigation and final decision of the case, the article in question shall be released from customs custody to the owner upon the filing of a bond equal to the ascertained or estimated amount of bounty, subsidy or subvention as provisionally determined by the Secretary and the Commission;]

"[d. The article, if not previously released under bond as provided for in this Section, shall be released after payment by the party concerned of the corresponding countervailing duty in addition to any ordinary duties, taxes and charges, if any, or re-exported upon the filing of a bond in an amount equal to the estimated dutiable values of the article or an amount not to exceed the amount of bounty, subsidy or subvention, conditioned upon the presentation of a landing certificate issued by a consular officer of the Philippines at the country of destination. If the article has been previously released under bond, the party concerned shall be required to pay the corresponding countervailing duty in addition to ordinary duties, taxes and other charges if any;]

"[e. Whenever the Commission, on its own motion or upon application of any interested party, finds that the conditions which necessitated the imposition of the countervailing duty has ceased to exist, it shall submit the necessary recommendation to the Secretary for the discontinuance of the imposition of that duty. Any order under this Section by the secretary shall be published in the Official Gazette and/or in a newspaper of general circulation;]

"[f. Any countervailing decision promulgated by the secretary shall be effective for a period of five (5) years from the time of its promulgation except upon the representation of the interested party of the necessity to continue the implementation of said decision, in which case the Secretary shall advise the Commission to conduct an investigation to

determine whether the conditions in subsection 'a' still exist. The action for extension shall be brought before the Secretary at least six (6) months before the expiration of the period.]

"[The findings of the Commission shall be submitted to the Secretary at least three (3) months before the expiration of the period.]

"WHENEVER ANY PRODUCT, COMMODITY, OR ARTICLE OF COMMERCE IS GRANTED, DIRECTLY OR INDIRECTLY, BY THE GOVERNMENT IN THE COUNTRY OF ORIGIN OR EXPORTATION, ANY KIND OR FORM OF SPECIFIC SUBSIDY UPON THE PRODUCTION, MANUFACTURE, OR EXPORTATION OF SUCH PRODUCT, COMMODITY OR ARTICLE, AND THE IMPORTATION OF SUCH SUBSIDIZED PRODUCT, COMMODITY OR ARTICLE HAS BEEN DETERMINED BY THE SECRETARY OF TRADE AND INDUSTRY, IN THE CASE OF NON-AGRICULTURAL PRODUCT, COMMODITY OR ARTICLE, OR BY THE SECRETARY OF AGRICULTURE, IN THE CASE OF AGRICULTURAL PRODUCT, COMMODITY OR ARTICLE (BOTH OF WHOM ARE HEREINAFTER SIMPLY REFERRED TO AS "THE SECRETARY, AS THE CASE MAY BE) AFTER FORMAL INVESTIGATION AND AFFIRMATIVE FINDINGS BY THE TARIFF COMMISSION (HEREINAFTER REFERRED TO AS "THE COMMISSION"), TO HAVE CAUSED OR THEREAT TO CAUSE MATERIAL INJURY TO A DOMESTIC INDUSTRY, OR TO MATERIALLY RETARD OR THREATEN TO MATERIALLY RETARD THE GROWTH OR THE ESTABLISHMENT OF A DOMESTIC INDUSTRY, A COUNTERVAILING DUTY EQUAL TO THE ASCERTAINED AMOUNT OF THE SUBSIDY SHALL BE LEVIED AND COLLECTED ON SUCH PRODUCT, COMMODITY OR ARTICLE AND ON IDENTICAL OR LIKE PRODUCT, COMMODITY OR ARTICLE THEREAFTER IMPORTED TO THE PHILIPPINES UNDER LIKE CIRCUMSTANCE, IN ADDITION TO ANY ORDINARY DUTIES, TAXES AND CHARGES IMPOSED BY LAW ON THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

"A. INITIATION OF ACTION. - ANY PERSON WHETHER NATURAL OR JURIDICAL WHO HAS AN INTEREST TO PROTECT SHALL FILE A VERIFIED PETITION WITH THE SECRETARY, WHICH PETITION SHALL BE ACCOMPANIED BY DOCUMENTS IF ANY, WHICH ARE REASONABLY AVAILABLE TO THE PETITIONER AND WHICH CONTAIN INFORMATION SUPPORTING THE FACTS THAT ARE ESSENTIAL TO ESTABLISH THE PRESENCE OF THE ELEMENTS REQUIRED TO BE PRESENT FOR THE IMPOSITION OF A COUNTERVAILING DUTY, AND SHALL FURTHER STATE, AMONG OTHERS; (1) THE DOMESTIC INDUSTRY TO WHICH THE PETITIONER BELONGS AND THE PARTICULAR DOMESTIC PRODUCT, COMMODITY OR ARTICLE OR CLASS OF DOMESTIC PRODUCT, COMMODITY OR ARTICLE BEING PREJUDICED; (2) THE NUMBER OF PERSONS EMPLOYED, THE TOTAL CAPITAL INVESTED IN AND THE PRODUCTION AND SALES VOLUME AND THE AGGREGATE PRODUCTION CAPACITY OF THE DOMESTIC INDUSTRY THAT HAS BEEN MATERIALLY INJURED OR THREATENED TO BE MATERIALLY INJURED OR WHOSE GROWTH OR THREATENED TO BE MATERIALLY RETARDED; (3) THE NAME AND ADDRESS OF THE IMPORTER (OR THE NAMES AND ADDRESSES OF THE IMPORTERS, IF THERE ARE SEVERAL), THE ESTIMATED AGGREGATE OR CUMULATIVE QUANTITY, THE PORT OR PORTS AND THE DATE OR DATES OF ARRIVAL, THE IMPORT ENTRY DECLARATIONS, THE VALUE PER IMPORT ENTRY DECLARATION OF THE IMPORTED PRODUCT, COMMODITY OR ARTICLE AND THE ESTIMATED AMOUNT OF THE SUBSIDY THEREON; AND (4) SUCH OTHER PARTICULARS, FACTS OR ALLEGATIONS AS ARE NECESSARY TO JUSTIFY THE IMPOSITION OF COUNTERVAILING DUTY ON THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

THE APPLICATION SHALL BE CONSIDERED TO HAVE BEEN MADE BY OR ON BEHALF OF THE DOMESTIC INDUSTRY IF IT IS SUPPORTED BY THOSE DOMESTIC

PRODUCERS WHOSE COLLECTIVE OUTPUT CONSTITUTES MORE THAN FIFTY (50%) PERCENT OF THE TOTAL PRODUCTION OF THE LIKE PRODUCT PRODUCED BY THAT PORTION OF THE DOMESTIC INDUSTRY EXPRESSING EITHER SUPPORT FOR OR OPPOSITION TO THE APPLICATION. HOWEVER, NO INVESTIGATION SHALL BE INITIATED WHEN DOMESTIC PRODUCERS EXPRESSLY SUPPORTING THE APPLICATION ACCOUNT FOR LESS THAN TWENTY-FIVE (25%) PERCENT OF TOTAL PRODUCTION OF THE LIKE PRODUCT PRODUCED BY THE DOMESTIC INDUSTRY.

IN SPECIAL CIRCUMSTANCES, THE AUTHORITIES CONCERNED ARE HEREBY AUTHORIZED TO INITIATE AN INVESTIGATION WITHOUT HAVING RECEIVED A WRITTEN APPLICATION BY OR ON BEHALF OF A DOMESTIC INDUSTRY FOR THE INITIATION OF SUCH INVESTIGATION IN THE EVENT AND ONLY IF THEY HAVE SUFFICIENT EVIDENCE OF THE EXISTENCE OF A SUBSIDY, INJURY AND CAUSAL LINK, TO JUSTIFY THE INITIATION OF AN INVESTIGATION.

"B. NOTICE TO THE SECRETARY OF FINANCE. - UPON HIS RECEIPT OF THE PETITION, THE SECRETARY SHALL, WITHOUT DELAY, FURNISH THE SECRETARY OF FINANCE WITH A COMPLETE COPY OF THE PETITION, INCLUDING ITS ANNEXES, IF ANY, AND REQUEST THE LATTER TO IMMEDIATELY INFORM THE COMMISSIONER OF CUSTOMS REGARDING THE FILING AND PENDENCY OF THE PETITION FOR THE IMPOSITION OF COUNTERVAILING DUTY AND TO INSTRUCT HIM TO GATHER, HOLD AND SECURE ALL IMPORT ENTRIES COVERING SUCH ALLEGEDLY SUBSIDIZED PRODUCT, COMMODITY OR ARTICLE WITHOUT LIQUIDATION, AND TO WITHHOLD THE RELEASE OF ANY OF SUCH PRODUCT, COMMODITY OR ARTICLE UNLESS SO INSTRUCTED OTHERWISE IN WRITING BY THE SECRETARY, AND TO SUBMIT TO THE SECRETARY, THROUGH THE SECRETARY OF FINANCE, A COMPLETE REPORT ON THE NUMBER,

VOLUME, AND VALUE OF THE IMPORTATION OF THE ALLEGEDLY SUBSIDIZED PRODUCT, COMMODITY OR ARTICLE WITHIN TEN (10) DAYS FROM RECEIPT BY THE COMMISSIONER OF CUSTOMS OF THE INSTRUCTION OF THE SECRETARY OF FINANCE, AND TO MAKE SUCH SIMILAR ADDITIONAL REPORTS EVERY TEN (10) DAYS THEREAFTER.

"C. NOTICE TO AND ANSWER OF THE IMPORTER. - WITHIN FIVE (5) DAYS FROM HIS RECEIPT OF THE PETITION, THE SECRETARY SHALL NOTIFY THE IMPORTER AND SHALL FURNISH HIM WITH A COPY OF THE PETITION AND ITS ANNEXES, IF ANY, EITHER BY PERSONAL DELIVERY OR BY REGISTERED MAIL, WHICHEVER IS MORE CONVENIENT AND EXPEDITIOUS.

"THE IMPORTER SHALL, NOT LATER THAN TEN (10) DAYS FROM HIS RECEIPT OF THE NOTICE, SUBMIT HIS ANSWER, INCLUDING SUCH RELEVANT EVIDENCE OR INFORMATION AS ARE REASONABLY AVAILABLE TO HIM TO CONTROVERT THE ALLEGATIONS OF THE PETITION, EITHER BY PERSONAL DELIVERY OR BY REGISTERED MAIL. IF THE IMPORTER FAILS TO SUBMIT HIS ANSWER, HE SHALL BE DECLARED IN DEFAULT, IN WHICH CASE, THE SECRETARY SHALL MAKE SUCH PRELIMINARY DETERMINATION OF THE CASE ON THE BASIS OF THE FACTS ALLEGED IN THE PETITION AND THE SUPPORTING INFORMATION AND DOCUMENTS SUPPLIED BY THE PETITIONER.

"D. PRELIMINARY DETERMINATION. - NOT LATER THAN TEN (10) DAYS FROM HIS RECEIPT OF THE ANSWER OF THE RESPONDENT IMPORTER, THE SECRETARY SHALL, ON THE BASIS OF THE PETITION OF THE AGGRIEVED PARTY AND THE ANSWER OF THE RESPONDENT IMPORTER AND THEIR RESPECTIVE SUPPORTING DOCUMENTS OR INFORMATION, MAKE A PRELIMINARY DETERMINATION WHETHER OR NOT A *PRIMA FACIE* CASE EXISTS FOR THE IMPOSITION OF A

COUNTERVAILING DUTY ON THE ALLEGEDLY SUBSIDIZED IMPORTED PRODUCT, COMMODITY OR ARTICLE.

"UPON DETERMINATION BY THE SECRETARY OF THE EXISTENCE OF A *PRIMA FACIE* CASE, HE SHALL, WITHOUT DELAY, TRANSMIT THE RECORDS OF THE CASE CONSISTING OF THE PETITION AND THE ANSWER, INCLUDING ALL THE RELEVANT DOCUMENTS, INFORMATION AND THE PERIODIC REPORTS OF THE COMMISSIONER OF CUSTOMS, TO THE COMMISSION FOR ITS IMMEDIATE FORMAL INVESTIGATION OF THE CASE. THE SECRETARY SHALL, IN ADDITION, IMMEDIATELY ISSUE, THROUGH THE SECRETARY OF FINANCE, A WRITTEN INSTRUCTION TO THE COMMISSIONER OF CUSTOMS AUTHORIZING THE RELEASE OF THE ALLEGEDLY SUBSIDIZED IMPORTED PRODUCT, COMMODITY OR ARTICLE UPON THE PAYMENT OF THE CORRESPONDING ORDINARY DUTIES, TAXES AND OTHER CHARGES IMPOSED BY LAW ON SUCH PRODUCT, COMMODITY OR ARTICLE AND UPON THE DEPOSIT WITH THE BUREAU OF CUSTOMS OF A CASH BOND EQUAL TO THE ESTIMATED COUNTERVAILING DUTY THAT MAY BE IMPOSED UPON SUCH ALLEGEDLY SUBSIDIZED IMPORTED PRODUCT, COMMODITY OR ARTICLE. THE CASH BOND SHALL BE DEPOSITED WITH A GOVERNMENT DEPOSITORY BANK AND SHALL BE HELD IN TRUST FOR THE RESPONDENT IMPORTER.

"IF NO *PRIMA FACIE* CASE EXISTS, THE SECRETARY SHALL DISMISS THE PETITION WITH COST TO THE PETITIONER AND SHALL PROPERLY NOTIFY ALL THE PARTIES CONCERNED, INCLUDING THE COMMISSIONER OF CUSTOMS THROUGH THE SECRETARY OF FINANCE, REGARDING SUCH DISMISSAL.

"E. INVESTIGATION BY THE COMMISSION. - IMMEDIATELY UPON ITS RECEIPT OF THE RECORDS OF THE CASE FROM THE SECRETARY, THE COMMISSION SHALL FORTHWITH SET THE CASE FOR

FORMAL INVESTIGATION AND SHALL ACCORDINGLY NOTIFY IN WRITING THE AGGRIEVED PARTY AND THE RESPONDENT IMPORTER AND, IN ADDITION, GIVE PUBLIC NOTICE TO THE EXACT INITIAL DATE, TIME AND PLACE OF THE FORMAL INVESTIGATION THROUGH THE PUBLICATION OF SUCH PARTICULARS AND A CONCISE SUMMARY OF THE PETITION IN TWO (2) NEWSPAPERS OF GENERAL CIRCULATION.

THE COMMISSION IS HEREBY AUTHORIZED TO REQUIRE ANY INTERESTED PARTY ALLOW ACCESS TO, OR OTHERWISE PROVIDE, NECESSARY INFORMATION TO ENABLE THE COMMISSION TO EXPEDITE THE INVESTIGATION.

IN CASES IN WHICH ANY INTERESTED PARTY REFUSES ACCESS TO, OR OTHERWISE DOES NOT PROVIDE, NECESSARY INFORMATION WITHIN A REASONABLE PERIOD OF TIME OR SIGNIFICANTLY IMPEDES THE INVESTIGATION, PRELIMINARY AND FINAL DETERMINATIONS, AFFIRMATIVE OR NEGATIVE, MAY BE MADE ON THE BASIS OF THE FACTS AVAILABLE.

"IN THE FORMAL INVESTIGATION, THE COMMISSION SHALL ESSENTIALLY DETERMINE: (1) THE NATURE AND AMOUNT OF THE SUBSIDY BEING ENJOYED BY THE IMPORTED PRODUCT, COMMODITY OR ARTICLE IN QUESTION; (2) THE PRESENCE AND EXTENT OF THE MATERIAL INJURY SUFFERED BY OR THE PRESENCE AND DEGREE OF THE THREAT OF MATERIAL INJURY TO THE AFFECTED DOMESTIC INDUSTRY; AND (3) THE EXISTENCE OF A CAUSAL RELATIONSHIP BETWEEN THE ALLEGEDLY SUBSIDIZED IMPORTED PRODUCT, COMMODITY OR ARTICLE AND THE MATERIAL INJURY OR THREAT OF MATERIAL INJURY TO THE AFFECTED DOMESTIC INDUSTRY.

"THE FORMAL INVESTIGATION SHALL BE CONDUCTED IN A SUMMARY MANNER. NO DILATORY TACTICS NOR UNNECES-

SARY OR UNJUSTIFIED DELAYS SHALL BE ALLOWED, AND THE TECHNICAL RULES OF EVIDENCE SHALL NOT BE APPLIED STRICTLY.

"THE COMMISSION SHALL COMPLETE THE FORMAL INVESTIGATION AND SUBMIT ITS REPORT TO THE SECRETARY NOT LATER THAN SIXTY (60) DAYS FROM THE DATE OF ITS RECEIPT OF THE RECORDS OF THE CASE FROM THE SECRETARY.

"F. DETERMINATION OF THE EXISTENCE OF SUBSIDY. - A SUBSIDY IS DEEMED TO EXIST WHEN THE GOVERNMENT OR ANY PUBLIC BODY IN THE COUNTRY OF ORIGIN OR EXPORTATION OF THE IMPORTED PRODUCT, COMMODITY OR ARTICLE EXTENDS FINANCIAL CONTRIBUTION TO THE PRODUCER, A MANUFACTURER OR EXPORTER OF SUCH PRODUCT, COMMODITY OR ARTICLE IN THE FORMS OF (1) DIRECT TRANSFER OF FUNDS SUCH AS GRANTS, LOANS OR EQUITY INFUSION, OR (2) POTENTIAL DIRECT TRANSFER OF FUNDS SUCH AS LOAN GUARANTEES, OR (3) FORGONE OR UNCOLLECTED GOVERNMENT REVENUE THAT IS OTHERWISE DUE FROM THE PRODUCER, MANUFACTURER OR EXPORTER OF THE PRODUCT, COMMODITY OR ARTICLE, OR (4) GOODS OR SERVICES OTHER THAN GENERAL INFRASTRUCTURE PROVIDED BY THE GOVERNMENT IN THE COUNTRY OF ORIGIN OR EXPORTATION TO THE PRODUCER, MANUFACTURER OR EXPORTER, OR (5) PURCHASES OF GOODS FROM THE PRODUCER, MANUFACTURER OR EXPORTER BY THE GOVERNMENT OF THE COUNTRY OF ORIGIN OR EXPORTATION IN ORDER TO STRENGTHEN THE COMPETITIVE ECONOMIC AND FINANCIAL CAPACITY OF SUCH PRODUCER, MANUFACTURER OR EXPORTER, OR (6) WHEN THE GOVERNMENT IN THE COUNTRY OF ORIGIN OR EXPORTATION MAKES PAYMENTS TO A FUNDING MECHANISM, OR ENTRUSTS OR DIRECTS A PRIVATE BODY TO CARRY OUT ONE OR MORE OF THE ACTIVITIES MENTIONED IN THE PRECEDING

NUMBERS, OR (7) WHEN THERE IS ANY FORM OF INCOME OR PRICE SUPPORT GIVEN DIRECTLY OR INDIRECTLY BY THE GOVERNMENT OR ANY PUBLIC BODY IN THE COUNTRY OF ORIGIN OR EXPORTATION TO THE PRODUCER, MANUFACTURER OR EXPORTER OF THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

"G. DETERMINATION OF MATERIAL INJURY. - THE PRESENCE AND EXTENT OF MATERIAL INJURY OR THE PRESENCE AND DEGREE OF THE THREAT OF MATERIAL INJURY TO DOMESTIC INDUSTRY BECAUSE OF THE SUBSIDIZED IMPORTS, SHALL BE DETERMINED BY THE COMMISSION ON THE BASIS OF POSITIVE EVIDENCE AND SHALL REQUIRE AN OBJECTIVE EXAMINATION OF (1) THE VOLUME OF THE SUBSIDIZED IMPORTS, THAT IS, WHETHER THERE HAS BEEN A SIGNIFICANT INCREASE IN SUBSIDIZED IMPORTS, EITHER IN ABSOLUTE TERMS OR RELATIVE TO PRODUCTION OR CONSUMPTION IN THE DOMESTIC MARKET; (2) THE EFFECT OF THE SUBSIDIZED IMPORTS ON PRICES IN THE DOMESTIC MARKET FOR LIKE PRODUCT, COMMODITY OR ARTICLE, THAT IS, WHETHER THERE HAS BEEN A SIGNIFICANT PRICE UNDERCUTTING BY THE SUBSIDIZED IMPORTS AS COMPARED WITH THE PRICE OF A LIKE PRODUCT, COMMODITY OR ARTICLE IN THE DOMESTIC MARKET, OR WHETHER THE EFFECT OF SUCH IMPORTS IS OTHERWISE TO DEPRESS PRICES TO A SIGNIFICANT DEGREE OR TO PREVENT PRICE INCREASES, WHICH OTHERWISE WOULD HAVE OCCURRED, TO A SIGNIFICANT DEGREE; AND (3) THE RESULTING EFFECT OF THE SUBSIDIZED IMPORTS ON THE DOMESTIC PRODUCERS OR MANUFACTURERS OF LIKE PRODUCT, COMMODITY OR ARTICLE, INCLUDING AN EVALUATION OF ALL RELEVANT ECONOMIC FACTORS AND INDICES HAVING A BEARING ON THE STATE OF THE DOMESTIC INDUSTRY CONCERNED, SUCH AS, BUT NOT LIMITED TO, ACTUAL AND POTENTIAL DECLINE IN OUTPUT, SALES, MARKET SHARE,

PROFITS, PRODUCTIVITY, RETURN ON INVESTMENTS, OR UTILIZATION OF CAPACITY; OTHER FACTORS AFFECTING DOMESTIC PRICES; THE ACTUAL OR POTENTIAL NEGATIVE EFFECTS OF SUCH SUBSIDIZED IMPORTS ON THE CASH FLOW, INVENTORIES, EMPLOYMENT, WAGES, GROWTH, ABILITY TO RAISE CAPITAL OR INVESTMENT IN THE AFFECTED DOMESTIC INDUSTRY; THE VOLUMES AND PRICES OF NON-SUBSIDIZED IMPORTS OF THE PRODUCT, COMMODITY OR ARTICLE IN QUESTION; CONTRACTION IN DOMESTIC DEMAND OR CHANGES IN THE PATTERNS OF DOMESTIC CONSUMPTION; TRADE RESTRICTIVE PRACTICES OF AND COMPETITION BETWEEN THE FOREIGN AND DOMESTIC PRODUCERS OR MANUFACTURERS; DEVELOPMENT OF TECHNOLOGY AND THE PRODUCTIVITY OF THE DOMESTIC INDUSTRY; ANY KNOWN FACTORS OTHER THAN THE SUBSIDIZED IMPORTS WHICH AT THE SAME TIME ARE INJURING THE DOMESTIC INDUSTRY; AND, IN THE CASE OF AGRICULTURE, WHETHER THERE HAS BEEN AN INCREASED BURDEN ON THE SUPPORT PROGRAMS OF THE NATIONAL GOVERNMENT.

"H. CUMULATION OF IMPORTS. - WHEN IMPORTS OF PRODUCTS, COMMODITIES OR ARTICLES FROM MORE THAN ONE COUNTRY ARE SIMULTANEOUSLY THE SUBJECT OF AN INVESTIGATION FOR THE IMPOSITION OF COUNTERVAILING DUTY, THE COMMISSION MAY CUMULATIVELY ASSESS THE EFFECTS OF SUCH IMPORTS ONLY IF THE COMMISSION IS CONVINCED THAT (1) THE AMOUNT OF SUBSIDIZATION ESTABLISHED IN RELATION TO THE IMPORTS FROM EACH COUNTRY IS MORE THAN *DE MINIMIS* AS DEFINED IN EXISTING INTERNATIONAL TRADE AGREEMENTS OF WHICH THE REPUBLIC OF THE PHILIPPINES IS A PARTY; (2) THE VOLUME OF SUCH IMPORTS FROM EACH COUNTRY IS NOT NEGLIGIBLE; AND (3) A CUMULATIVE ASSESSMENT OF THE EFFECTS OF SUCH IMPORTS IS WARRANTED IN THE LIGHT OF THE

CONDITIONS OF COMPETITION BETWEEN THE IMPORTED PRODUCTS, COMMODITIES OR ARTICLES AND THE CONDITIONS OF COMPETITION BETWEEN THE IMPORTED PRODUCTS, COMMODITIES OR ARTICLES AND THE LIKE DOMESTIC PRODUCTS, COMMODITIES OR ARTICLES.

"I. THE COMMISSION SHALL, BEFORE A FINAL DETERMINATION IS MADE, INFORM ALL THE INTERESTED PARTIES OF THE ESSENTIAL FACTS UNDER CONSIDERATION WHICH FORM THE BASIS FOR THE DECISION TO APPLY DEFINITIVE MEASURES. SUCH DISCLOSURE SHOULD TAKE PLACE IN SUFFICIENT TIME FOR THE PARTIES TO DEFEND THEIR INTERESTS.

"J. IMPOSITION OF COUNTERVAILING DUTY. - THE SECRETARY SHALL, WITHIN TEN (10) DAYS FROM HIS RECEIPT OF THE FAVORABLE REPORT OF THE COMMISSION, ISSUE A DEPARTMENT ORDER IMPOSING THE COUNTERVAILING DUTY ON THE SUBSIDIZED IMPORTED PRODUCT, COMMODITY OR ARTICLE.

"IN CASE OF A FAVORABLE REPORT OF THE COMMISSION, THE CASH BOND SHALL BE APPLIED TO THE COUNTERVAILING DUTY ASSESSED. IF THE CASH BOND IS IN EXCESS OF THE COUNTERVAILING DUTY ASSESSED, THE REMAINDER SHALL BE RETURNED TO THE IMPORTER IMMEDIATELY. IF THE CASH BOND IS NOT ENOUGH TO COVER THE COUNTERVAILING DUTY ASSESSED, THE RESPONDENT IMPORTER SHALL BE IMMEDIATELY ASSESSED FOR THE DEFICIENCY AND SHALL PAY THE SAME WITHIN FIFTEEN (15) DAYS FROM HIS RECEIPT OF THE DEFICIENCY ASSESSMENT.

"IF THE RULING OF THE SECRETARY IN A PETITION FOR A COUNTERVAILING DUTY IS UNFAVORABLE TO THE PETITIONER, THE SECRETARY SHALL, AFTER THE LAPSE OF THE PERIOD FOR THE PETITIONER TO APPEAL TO THE

COURT OF TAX APPEALS, ISSUE, THROUGH THE SECRETARY OF FINANCE, A DEPARTMENT ORDER FOR THE IMMEDIATE RELEASE OF THE CASH BOND TO THE IMPORTER UNLESS THE COURT OF TAX APPEALS ORDERS OTHERWISE.

"K. DURATION AND REVIEW OF COUNTERVAILING DUTY. - AS A GENERAL RULE, ANY IMPOSITION OF COUNTERVAILING DUTY SHALL REMAIN IN FORCE ONLY AS LONG AS AND TO THE EXTENT NECESSARY TO COUNTERACT A SUBSIDIZATION WHICH IS CAUSING OR THREATENING TO CAUSE MATERIAL INJURY.

"HOWEVER, THE NEED FOR THE CONTINUED IMPOSITION OF THE COUNTERVAILING DUTY MAY BE REVIEWED BY THE COMMISSION, WHEN WARRANTED, UPON DIRECTION OF THE SECRETARY.

"ANY INTERESTED PARTY MAY ALSO PETITION THE SECRETARY FOR A REVIEW OF THE CONTINUED IMPOSITION OF THE COUNTERVAILING DUTY: *PROVIDED*, THAT A REASONABLE PERIOD OF TIME HAS ELAPSED SINCE THE IMPOSITION OF THE COUNTERVAILING DUTY, AND UPON SUBMISSION OF POSITIVE INFORMATION SUBSTAINING THE NEED FOR A REVIEW. INTERESTED PARTIES SHALL HAVE THE RIGHT TO REQUEST THE SECRETARY TO EXAMINE (1) WHETHER THE CONTINUED IMPOSITION OF THE COUNTERVAILING DUTY IS NECESSARY TO OFFSET THE SUBSIDIZATION; AND (2) WHETHER THE INJURY WOULD LIKELY CONTINUE OR RECUR IF THE COUNTERVAILING DUTY WERE REMOVED OR MODIFIED, OR BOTH.

"IF AS A RESULT OF THE REVIEW BY THE COMMISSION, THE SECRETARY DETERMINES THAT THE COUNTERVAILING DUTY IS NO LONGER NECESSARY OR WARRANTED, THE IMPOSITION OF THE COUNTERVAILING DUTY SHALL BE TERMINATED IMMEDIATELY AND ALL PARTIES CONCERNED SHALL BE NOTIFIED

ACCORDINGLY OF SUCH TERMINATION, INCLUDING AND ESPECIALLY THE COMMISSIONER OF CUSTOMS THROUGH THE SECRETARY OF FINANCE.

"NOTWITHSTANDING THE PROVISIONS OF THE PRECEDING PARAGRAPHS OF THIS SECTION, ANY COUNTERVAILING DUTY SHALL BE TERMINATED ON A DATE NOT LATER THAN FIVE (5) YEARS FROM THE DATE OF ITS IMPOSITION (OR FROM THE DATE OF THE MOST RECENT REVIEW IF THAT REVIEW HAS COVERED BOTH SUBSIDIZATION AND MATERIAL INJURY), UNLESS THE COMMISSION HAS DETERMINED, IN A REVIEW INITIATED AT LEAST SIX (6) MONTHS PRIOR TO THE TERMINATION DATE UPON THE DIRECTION OF THE SECRETARY OR UPON A DULY SUBSTANTIATED REQUEST MADE BY OR ON BEHALF OF THE AFFECTED DOMESTIC INDUSTRY, THAT THE TERMINATION OF THE COUNTERVAILING DUTY WOULD LIKELY LEAD TO THE CONTINUATION OR RECURRENCE OF THE SUBSIDIZATION AND MATERIAL INJURY.

"THE PROCEDURE AND EVIDENCE GOVERNING THE DISPOSITION OF THE PETITION FOR THE IMPOSITION OF COUNTERVAILING DUTY SHALL APPLY WITH THE EQUAL MEASURE TO ANY REVIEW CARRIED OUT UNDER THIS SECTION, AND ANY SUCH REVIEW SHALL BE CARRIED OUT EXPEDITIOUSLY AND SHALL BE CONCLUDED NOT LATER THAN ONE HUNDRED FIFTY (150) DAYS FROM THE DATE OF THE INITIATION OF SUCH A REVIEW.

"L. JUDICIAL REVIEW. - ANY INTERESTED PARTY WHO IS ADVERSELY AFFECTED BY A FINAL RULING OF THE SECRETARY IN CONNECTION WITH THE IMPOSITION OF COUNTERVAILING DUTY MAY FILE WITH THE COURT OF TAX APPEALS, EITHER BY PERSONAL DELIVERY OR BY REGISTERED MAIL, A PETITION FOR THE REVIEW OF SUCH RULING WITHIN FIFTEEN (15) DAYS FROM HIS RECEIPT OF NOTICE OF THE FINAL RULING OF THE SECRETARY: *PROVIDED, HOWEVER, THAT*

THE FILING OF SUCH PETITION FOR REVIEW SHALL NOT IN ANY WAY STOP, SUSPEND OR OTHERWISE TOLL THE IMPOSITION AND COLLECTION OF THE COUNTERVAILING DUTY ON THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

"THE PETITION FOR REVIEW SHALL COMPLY WITH THE SAME REQUIREMENTS AND SHALL FOLLOW THE SAME RULES OF PROCEDURE AND SHALL BE SUBJECT TO THE SAME DISPOSITION AS APPEALS IN CONNECTION WITH ADVERSE RULINGS ON TAX MATTERS TO THE COURT OF TAX APPEALS.

"M. COSTS OF SUIT. - THE COSTS OF THE PROCEEDINGS, INCLUDING THE FORMAL INVESTIGATION BY THE COMMISSION, SHALL BE BORNE BY THE LOSING PARTY."

SECTION 2. Rules and Regulations. - The Secretary of Trade and Industry in the case of non-agricultural product, commodity or article and the Secretary of Agriculture in the case of agricultural product, commodity or article shall issue all rules and regulations, that may be necessary for the effective and proper implementation of this Act.

SECTION 3. Separability Clause. - If any of the provisions of this Act is declared invalid by a competent court, the remainder of this Act or any provision not affected by such declaration of invalidity shall remain in force and effect.

SECTION 4. Repealing Clause. - All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

SECTION 5. Effectivity Clause. - This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved ,

Senator Drilon. Mr. President, may I request the Chair to recognize the gentleman from Cagayan, Sen. Juan Ponce Enrile, for

The President. Sen. Juan Ponce Enrile is recognized for his sponsorship speech.

SPONSORSHIP SPEECH OF SENATOR ENRILE

Senator Enrile. Thank you, Mr. President, and the distinguished members of this Chamber.

Mr. President, today, the terms deregulations, liberalization, globalization, and market capitalism are concepts that are common to us. They had become household words to many people of this country because we have become a member of the international trading community by virtue of our adherence as a member of the World Trade Organization and the GATT agreement of 1994.

Because of this membership which, as a nation, we voluntarily accepted, we have become a part of a global market such that there is now a freer flow of goods not only from our country to other countries of the world, but more importantly from other member countries of the WTO international family into our economy.

Common sense will tell us—and I think there is no need for an elaborate explanation—that because of this condition, one may very well expect that the flow of foreign-made goods, whether industrial or agricultural, into our economy, would probably cause some degree of discomfort, if not injury, to domestic producers of like goods or products.

Realizing this, Mr. President, the signatories to the WTO agreement have seen fit to authorize member governments to take certain responsive measures to protect their local/domestic industries. I can mention at least three of such authorization under the WTO agreement that may be used by a country like ours to protect itself and its industries from the onrush of goods that would unfairly compete with like goods produced in our country.

In fact, Mr. President, we have debated in this Chamber one such measure—I refer to the anti-dumping bill—that this humble representation sponsored on the floor of the Senate not quite long ago.

Today, Mr. President, I am presenting to the Chamber for its consideration another measure, also authorized under the WTO Agreement, treating on another facet of international trade that could cause material injury to our local industries if not addressed.

I refer to those imported goods, be they agricultural or industrial, that are not only coming into our country under highly competitive pricing arrangement but actually being deliberately exported to us under the encouragement and sponsorship of the government of the exporting country through subsidization.

The bill that would deal with this, Mr. President, is now Senate Bill No. 1330, entitled

AN ACT TO PROVIDE THE RULES FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON THE IMPORTATION OF SUBSIDIZED PRODUCTS, COMMODITIES OR ARTICLES OF COMMERCE, AMENDING FOR THE PURPOSE SECTION 302 OF THE TARIFF AND CUSTOMS CODE, AS AMENDED, AND FOR OTHER PURPOSES.

Mr. President, this is the second of a series of three measures that we ought to adopt or ought to have adopted a long time ago in order to protect our local industries. As I said, we have already adopted the anti-dumping duty bill. Now, we are going to deal with the countervailing duty bill.

This bill that I mentioned exacts or imposes a countervailing duty on subsidized products exported to our country by other countries. The extent and limit of the duty that we are authorized to impose in order to give some degree of protection to our local producers of like products is the level of subsidization done by the government of the exporting country.

Having said that, Mr. President, I would like to hasten the information that under the treaty, in order for a nation to be permitted to respond to subsidize imports by imposing a countervailing duty, that nation, such as ours, must show that the subsidized imports are causing material injury to domestic industries of like products.

I would like, at this point, to state that as we have already discussed this extensively in the course of our deliberation on the anti-dumping duty, the rules regarding the injury that must be established to justify the imposition of the countervailing duty on imported goods into our country are virtually the same as those for the anti-dumping bill that we have recommended for approval by Congress. I would like to put into the record, Mr. President, that in the international trading arena, distinction is made between export subsidies which are deliberately imposed or provided by a foreign government to promote the export of its particular product in world markets and domestic production of certain types of commodities for the domestic market, not necessarily for the export market.

Primarily, the measure that we are presenting today will deal with subsidization of products for export. But this does not prevent the application of the duty that we are proposing in Senate Bill No. 1330. In the event that subsidies intended for domestic market of the exporting country find their way into the Philippines, into our country, such subsidization will be reflected in the price of the goods that are marketed within our economy.

There is some degree of sensitivity in dealing with countervailing duty, Mr. President, because in contrast with the importation or exportation to us of dumped goods, subsidization of exports always—and I do not think of any exception—involves a government action of another country.

In the exportation to us of goods for dumping purposes, the actor is primarily a private enterprise. But in the exportation to us of subsidized goods, the actors are the private enterprise—that is the beneficiary of the subsidy—and it is government that grants the subsidy. This is the complicating factor added to this particular problem.

Issues of subsidies and countervailing duties are oftentimes more significantly visible because they involve higher levels of government-to-government diplomacy, unlike in the case of the dumping of goods where governments are not actually and directly involved.

In crafting this measure, we have taken care that we adhered quite closely to our commitments under the GATT treaty of 1994 and the WTO-Uruguay Round because it can certainly be expected that the foreign sovereign that imposed the subsidy or granted the subsidy will be displeased to have its action questioned by another sovereign.

And so, Mr. President, we have included in the draft of the bill as much as possible all those elements that are required by the WTO Agreement-Uruguay-Round to establish what is called "actionable subsidy." Meaning, that there must be a subsidy contingent upon export performance and a benefit granted to the specific industry or enterprise, which is the grantee of the subsidy; that the subsidy must be specific to that industry or enterprise; and, finally, that there must be a causal link between the subsidy and the injury to local industries in order to justify the imposition of the countervailing duty.

What are the subsidies that are actually proscribed under the treaty which are also proscribed under the measure that we are presenting and which would trigger a reason for the imposition of the countervailing duty? We have listed them in the measure, Mr. President.

For instance:

1. Direct transfer of funds from the government to the grantee of the subsidy such as grants-in-aid, loans or equity infusion;

2. Potential direct transfer of funds such as loan guarantees granted to a particular beneficiary enterprise;

3. Forgone or uncollected government revenue that is otherwise due from the producer, manufacturer or exporter. These are exemptions, et cetera;

4. Goods or services other than general infrastructures provided by the government in the country of origin or exportation to the producer, manufacturer or exporter;

5. Purchases of goods from the producer, manufacturer, or exporter by the government of the country of origin or exportation in order to strengthen the competitive economic and financial capacity of such producer, manufacturer or exporter;

6. When the government in the country of origin of exportation makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the activities mentioned in the preceding numbers; and finally

7. When there is any form of income or price support given directly or indirectly by the government or any public body in the country of origin or exportation to the producer, manufacturer or exporter of the imported product, commodity or article.

Mr. President, we have outlined the procedure in order to give every party a chance to be heard before countervailing duty is imposed. I need not repeat this. We have discussed this in the course of our discussion of the Anti-Dumping Law. There is a close affinity, linkage and connection between the anti-dumping measure that we have passed and this particular measure.

With that, Mr. President, I would recommend that we adopt this as a counterpart measure of the anti-dumping bill in order that we can protect our industries. Soon, we will be drafting and presenting to the Body the third component of these legal safety nets and these are the safeguard measures which will deal with another facet of our international trade and that is the case of inordinate surge of imports of the country without any dumping activity or without any subsidy which is also authorized to be controlled under the WTO Agreement.

Thank you, Mr. President.

The President. Thank you, Sen. Juan Ponce Enrile.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, we would like to thank the gentleman from Cagayan and the chairman of our Committee on Ways and Means for the time and effort devoted by the committee in crafting this very technical and complicated but necessary piece of legislation.

SUSPENSION OF CONSIDERATION OF S. NO. 1330

To enable our colleagues to prepare for the period of interpellations, we move that we suspend consideration of Senate Bill No. 1330 under Committee Report No. 11.

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

**BILL ON SECOND READING
S. No. 1261 - PNP Modernization
(Continuation)**

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1261, as reported out under Committee Report No. 9.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 1261 is now in order.

Senator Drilon. Mr. President, may we ask the Chair to recognize Sen. Aquilino Q. Pimentel Jr., the principal sponsor, and Sen. Gregorio B. Honasan to interpellate Senator Pimentel.

The President. Sen. Aquilino Q. Pimentel Jr. is recognized as the sponsor, and Sen. Gregorio B. Honasan is also recognized for the interpellation.

Senator Honasan. Thank you, Mr. President. Will the distinguished sponsor yield for just one clarificatory question?

Senator Pimentel. With pleasure, Mr. President.

Senator Honasan. Mr. President, I refer to Section 4 which states that Section 13 of Republic Act No. 8551 is hereby amended to read as follows:

SEC. 13. *Authority of the Commission to reorganize the PNP.*

Senator Pimentel. Yes, Mr. President.

Senator Honasan. Mr. President, has the Philippine National Police organization been governed by an approved table of organization and equipment in the past that would define not only the present organization but the future organization by law?

Senator Pimentel. Mr. President, the table of reorganization has not yet been done. It is being done.

Senator Honasan. Thank you, Mr. President. My only point is, we would like to take advantage of the proposed bill to allow

once and for all the Philippine National Police to propose an organization that will allow it to accomplish its mission.

It has been our sad experience, Mr. President, even as far as the Armed Forces of the Philippines Modernization Act is concerned, even to this date after we approved it, the Armed Forces of the Philippines does not have an approved table of organization and equipment.

Now if we draw a parallel, it has also been our sad experience during the budget hearings that the chain of command of the Philippine National Police has informed us—the Senate—that it is the Department of Budget and Management that arbitrarily determines its staffing pattern. And we are not yet even considering the aspect of equipment.

I feel strongly that this must be a requirement. It cuts through issues like the budget, promotions and the organization itself that we seek to modernize, improve and decentralize.

May we request the distinguished sponsor to make a comment on this, please?

Senator Pimentel. Mr. President, the question of the gentleman is really very fundamental. Nonetheless, the proposed approval of this bill will in no way preclude the police from establishing a structure of organization for as long as they fall within the provisions of the proposed law.

But I can see the gentleman's point. Indeed, the Department of Budget and Management is practically exercising a veto power over the requirements of personnel—for example, in the gentleman's position—for the reason that they can, in effect, lay the guidelines for the staffing pattern of the police.

Considering everything, I think we can craft this law so that we forestall any such attempt by any other body to dominate the establishment of the organizational structure of the police.

Probably, hopefully, we will also be able to place certain guidelines that will be, in effect, protective of the right of the police to determine for itself the kind of organization that it really wants.

Senator Biazon. Mr. President.

The President. Senator Biazon is recognized.

Senator Biazon. With the permission of the two gentlemen.

With Senator Pimentel as the lead author of the bill, and this representation as a coauthor, may I ask some clarification from the question of Senator Honasan on what he has in mind in terms of what table of organization we are referring to.