

INFORMATION SHEET
ON

COMMITTEE REPORT NO. 230

'00 MAY 15 P3:44

RE 2033

Short Title SAFEGUARD MEASURES ACT

Filed on 15 MAY 2000

RECEIVED BY: G

a) COMMITTEE(s) which reported out the bill(s)/resolution(s)/other matters:

TRADE and COMMERCE (primary)
WAYS and MEANS (secondary)

b) BILL(s) and/or RESOLUTION(s)/OTHER MATTER(s) reported out and taken into consideration:

Bill/Resolution/others	Referred to the Ctte(s) on:	Author(s)
1. S. No. 88	TRADE & COMMERCE/WAYS & MEANS	Sen. Flavier
2. <u>692</u>	"	Sen. Santiago
3. <u>764</u>	"	Sen. Enrile
HBN 7613 ²⁶	"	Sen. Osmeña III

-Other bill(s)/resolution(s)/other matters of similar subject matter not included in this report:

Reason(s): _____

c) ACTION TAKEN by the Committee(s):

Primary Committee

Secondary Committee

(If this is not a joint report)

Recommending Approval

with amendments

without amendments

in substitution of

in consolidation with

Laid on the Table/Archived

Pending in the
Committee on _____

d) COMMITTEE MEETINGS/PUBLIC HEARINGS/TWG/OTHERS CONDUCTED:

Date: _____ Venue: _____ Date: _____ Venue: _____

Public hearings - March 11, 2000 - Recto Room, Senate of the Phil.

April 11, 2000 - Padilla Rm., Senate of the Phil.

TWG Meetings - April 24, 2000, May 2, 2000 & May, 5, 2000

e) Does this Bill/Resolution contain any REVENUE or APPROPRIATION Provision? _____

If Yes, has it been referred to the Finance or Ways and Means Committee and what were its recommendations?

For approval / substitute Bill

f) RELATED/COUNTERPART MEASURE from the HOUSE OF REPRESENTATIVES:

Bill/Resolution No.(s)	Status in the House	Status in the Senate
<u>HBN 7613</u>	<u>passed on third reading</u>	

g) MEMBER(s) without signature in the report; and reason(s):

N/A

h) Additional remarks: _____

Submitted by: JOEY M. TUNAC
Legislative Committee Secretary

Date submitted: _____

ELEVENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

'00 MAY 15 P3:44

SENATE

RECEIVED BY: G

COMMITTEE REPORT NO. 230

Submitted jointly by the Committees on Trade and Commerce *and* Ways and Means on **15 MAY 2000**

Re: S. No. **2033** (Prepared by the Committees)

Recommending its approval in substitution of S. Nos. 88, 692, 764 and 926 taking into consideration House Bill No. 7613

Sponsors: Senators Magsaysay, Jr., Flavier, Santiago, Enrile, and Osmeña III

MR. PRESIDENT:

The Committees on Trade and Commerce; *and* Ways and Means, to which were referred S. No. 88 introduced by Senator Flavier, entitled:

"AN ACT TO GOVERN SAFEGUARD MEASURES TO BE TAKEN IN RESPONSE TO AN INCREASING IN THE IMPORTATION OF GOODS DIRECTLY RESULTING OUT OF THE OBLIGATIONS INCLUDING TARIFF CONCESSIONS UNDER THE GATT-WTO"

S. No. 692 introduced by Senator Santiago, entitled:

"AN ACT TO GOVERN GENERAL SAFEGUARD MEASURES IN RESPONSE TO AN INCREASE IN THE IMPORTATION OF GOODS DIRECTLY RESULTING OUT OF THE OBLIGATIONS INCLUDING TARIFF CONCESSIONS UNDER THE WORLD TRADE ORGANIZATION"

S. No. 764 introduced by Senator Enrile, entitled:

"AN ACT PROVIDING SAFEGUARDS FOR AGRICULTURAL PRODUCTS WHOSE QUANTITATIVE IMPORT RESTRICTIONS HAD BEEN REPLACED WITH ORDINARY CUSTOMS DUTIES, AMENDING FOR THE PURPOSE, THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINE, AS AMENDED, AND FOR OTHER PURPOSES"

S. No. 926 introduced by Senator Osmeña III, entitled:

"AN ACT PROVIDING SAFEGUARD MEASURES TO BE IMPOSED IN RESPONSE TO AN INCREASE IN THE IMPORTATION OF GOODS DIRECTLY RESULTING FROM OBLIGATIONS UNDER THE GATT-WTO, INCLUDING TARIFF CONCESSIONS"

and taking into consideration H. No. 7613 introduced by Representatives Teves et. al., entitled:

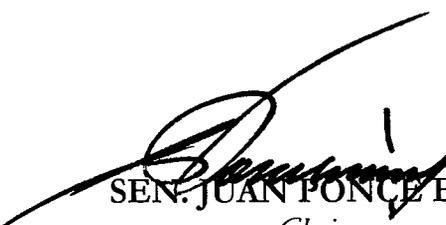
"AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING SAFEGUARD MEASURES TO BE UNDERAKEN IN RESPONSE TO IMPORT SURGES AND PROVIDING PENALTIES FOR VIOLATION THEREOF"

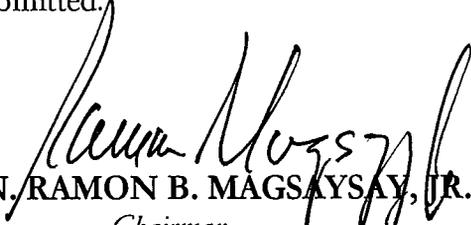
have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill S. No. 2033, prepared by the Committees, entitled:

"AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING EMERGENCY SAFEGUARD MEASURES AND FOR OTHER PURPOSES"

be approved in substitution of S. Nos. 88, 692, 764, 926 and taking into consideration House Bill No. 7613, with Senators Flavier, Santiago, Enrile, Osmeña III, and Magsaysay Jr. as authors thereof.

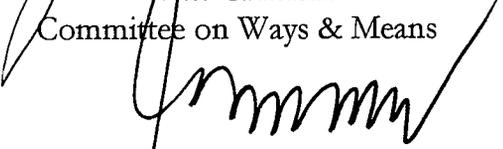
Respectfully submitted:

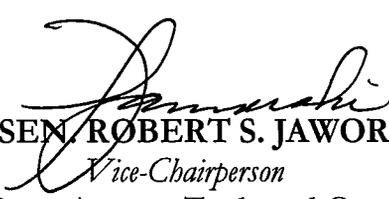

SEN. JUAN PONCE ENRILE
Chairman
Committee on Ways & Means


SEN. RAMON B. MAGSAYSAY, JR.
Chairman
Committee on Trade and Commerce

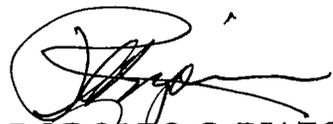

SEN. JOHN H. OSMEÑA
Vice-Chairman
Committee on Ways & Means


SEN. ANNA DOMINIQUE M.L. COSETENG
Vice-Chairperson
Committee on Trade and Commerce


SEN. GREGORIO B. HONASAN
Vice-Chairman
Committee on Ways & Means


SEN. ROBERT S. JAWORSKI
Vice-Chairperson
Committee on Trade and Commerce

MEMBERS:

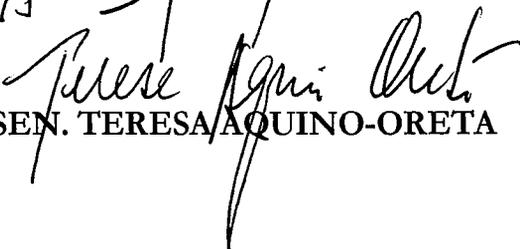

SEN. RODOLFO G. BIAZON


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SEN. RENATO COMPAÑERO CAYETANO


SEN. JUAN FLAVIER


SEN. LOREN LEGARDA-LEVISTE


SEN. TERESA AQUINO-ORETA

P. Ueno n
SEN. SERGIO R. OSMEÑA III
W/ Resolutions + Amendments

Pimentel Jr.
SEN. AQUILINO Q. PIMENTEL JR.
(Mayamab)

Barbers
SEN. ROBERT Z. BARBERS

Ramón B. Revilla
SEN. RAMON B. REVILLA

EX-OFFICIO MEMBERS:

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BLAS F. OPLE
by reservation.
President Pro-Tempore

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FRANCISCO S. TATAD
Majority Leader

Teofisto T. Guingona, Jr.
TEOFISTO T. GUINGONA, JR.
Minority Leader

The Honorable
FRANKLIN M. DRILON
Senate President
Pasay City

ELEVENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
SECOND REGULAR SESSION)

'00 MAY 15 P3:44

SENATE
S. B. No. 2033

RECEIVED BY: _____

*Introduced by Senators Flavier, Santiago,
Enrile, Osmeña III and Magsaysay, Jr.*

AN ACT
PROTECTING LOCAL INDUSTRIES BY PROVIDING EMERGENCY SAFEGUARD
MEASURES AND FOR OTHER PURPOSES

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

CHAPTER I. GENERAL PROVISIONS

SECTION 1. Short Title. - This Act shall be known as the "Safeguard Measures Act of 2000".

SEC. 2. Declaration of Policy. - The State shall promote the competitiveness of Filipino industries based on sound industrial and agricultural development, and make full and efficient use of human and natural resources. In pursuit of these goals, the State shall provide safeguard measures which may be necessary to facilitate the positive adjustment of domestic industries from increased imports arising from the obligations, including tariff concessions, made under multilateral and regional trading arrangements.

SEC. 3. Scope of Application. - This Act shall apply to all articles being imported into the country irrespective of their source.

SEC. 4. Definitions. - For the purposes of this Act, the following terms are defined as follows:

- a. "Agricultural product" refers to a specific commodity listed as an 8-digit item under Chapters 1 to 24 of the Harmonized System (HS) of Commodity Classification as used in the Tariff and Customs Code of the Philippines. For purposes of applying special safeguard measures in agriculture, "agricultural product" refers to a product covered under the WTO Agreement on Agriculture, whose quantitative import restriction had been converted into ordinary customs duties, and is designated with the symbol "SSG" in the List of Philippine Tariff Commitments in the WTO;

- b. "Commission" shall refer to the Tariff Commission;
- c. "Compensation" shall mean equivalent tariff reductions to be offered by the Philippines;
- d. "Directly competitive products" shall mean domestically-produced substitutable products;
- e. "Domestic industry" shall refer to the domestic producers, as a whole, of the like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products;
- f. "GATT" shall mean the General Agreement on Tariffs and Trade of 1994;
- g. "General safeguard measure" shall mean an emergency trade measure provided for under Article XIX of GATT 1994 and the WTO Agreement on Safeguards;
- h. "Interested parties" shall include relevant domestic producers, consumers and other users, importers, exporters, foreign producers and governments of the countries exporting the product under consideration;
- i. "Like product" shall mean a domestic product which is identical, i.e., alike in all respect to the imported product under consideration, or in the absence of such a product, another domestic product which, although not alike in all respects, has characteristics closely resembling those of the imported product under consideration;
- j. "Market access opportunity" shall mean the percentage total annual volume of imports of an agricultural product to the corresponding total volume of domestic consumption of the said product in the country in the three (3) immediately preceding years for which data is available;
- k. "Minimum access volume (MAV)" is the amount an agricultural product allowed by RA 8178 to be imported into the country at a customs duty lower than the out-quota customs duty;
- l. "Multilateral and regional trading arrangements" shall refer, among others, to those under the World Trade Organization (WTO), the Association of Southeast Asian Nations (ASEAN), and the Asia-Pacific Economic Cooperation (APEC), and any similar trading arrangement that may be set up in the future;
- m. "Price difference" is the amount obtained by subtracting the annual costs, insurance, and freight (c.i.f.) import price from the trigger price;

- n. "Product" refers to article, commodity or good;
- o. "Safeguard Agreement shall mean the WTO Agreement on Safeguards;
- p. "Secretary" shall refer to either the Secretary of the Department of Trade and Industry or the Secretary of the Department of Agriculture as specified in this Act;
- q. "Serious injury" shall mean a significant overall impairment in the position of a domestic industry;
- r. "Special safeguard measure" shall mean an emergency trade measure provided under the WTO Agreement on Agriculture;
- s. "Threat of serious injury" shall mean the factual existence of a clear and imminent serious injury;
- t. "Trigger price" is the price benchmark for applying the special safeguard measure; and
- u. "Trigger volume" is the volume benchmark for applying the special safeguard measure.

CHAPTER II. GENERAL SAFEGUARD MEASURE

SEC. 5. Application of General Safeguard Measures. - Whenever any product, subject to an obligation, including tariff concessions under multilateral and regional trading arrangements is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as a result of unforeseen developments and of the effects of those obligations, and that imports are causing or are threatening to cause serious injury to the domestic industry, the Secretary of Trade and Industry in the case of non-agricultural product, or the Secretary of Agriculture in the case of an agricultural product, shall apply a general safeguard measure upon the positive final determination of the Commission, subject to the subsequent provisions of this Act.

SEC. 6. Initiation of Action Involving General Safeguard Measure.. - Any person, whether natural or juridical, belonging to or representing a domestic industry may file with the Secretary a verified petition requesting that action be taken to remedy the serious injury sustained by, or prevent the threat thereof to, the domestic industry caused by increased imports of the product under consideration.

The petition shall include documentary evidence supporting the facts that are essential establish:

1. an increase in imports of the like or directly competitive products;
2. the existence of serious injury or threat thereof to the domestic industry; and
3. the casual link between the increased imports of the product under consideration and the serious injury or threat thereof.

The Secretary shall review the accuracy and adequacy of the evidence adduced in the petition to determine the existence of a *prima facie* case within five (5) days from receipt of the petition that will justify the initiation of a preliminary investigation.

In the absence of such a petition, the Secretary may, *motu proprio*, initiate a preliminary safeguards investigation if there is clear evidence that increased imports of the product under consideration have caused or are threatening to cause serious injury to the domestic industry.

SEC. 7. Preliminary Determination - Not later than sixty (60) days from receipt of the petition or a *motu proprio* initiation of the preliminary safeguards investigation, the Secretary shall, on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration have caused or are threatening to cause serious injury to the domestic industry. In the process of conducting a preliminary determination, the Secretary shall notify interested parties and shall require them to submit their answers within fifteen (15) days from receipt of such notice. Receipt of such notice shall be deemed one week or seven (7) calendar days from the date of transmittal to the respondent or appropriate diplomatic representative of the country of exportation or origin of the imported product under consideration.

When information is not applied within the above time limit set by the Secretary or if the investigation is significantly impeded, decision will be based on the facts derived from the evidence at hand.

Upon a positive preliminary determination that increased importation of the product under consideration has caused or is threatening to cause serious injury to the domestic industry, the Secretary shall, without delay, transmit its records to the Commission for its immediate formal investigation. In the case of a negative preliminary determination, the Secretary shall terminate the investigation.

SEC. 8. Provisional General Safeguard Measures. - In critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports have caused or are threatening to cause serious injury or threat thereof to the domestic industry, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measure.

Such measures should take the form of tariff increases to be paid through cash bond unless that would not be sufficient to redress or prevent injury to the domestic industry. The cash bond shall be deposited with a government depository bank and shall be held in trust for the importer who posted the bond. The duration of the provisional measure shall not exceed two hundred (200) days from the date of imposition during which period the requirements of a subsequent sections of this Act on the initiation of a formal investigation, notification and consultation shall have been met; Provided, that the duration of any provisional measure shall be counted as part of the initial period, and any extension, of the imposition of the definitive final safeguard measure.

SEC. 9. Formal Investigation. - Immediately upon receipt of the records of the case from the Secretary, the Commission shall start the formal investigation. The commission shall accordingly notify in writing interested parties to provide them the opportunity to submit their evidence and present their views. The Commission may, *motu proprio*, or upon the request of the interested parties, conduct public consultations.

SEC. 10. Inspection of Evidence. - The Secretary shall make available for inspection by interested parties, copies of all evidence submitted on or before the relevant due date: Provided, however, that if any interested party submits confidential evidence, it shall likewise submit non-confidential summary, or if such party cannot be provided. However, where the Secretary finds that such a request for confidentiality is unwarranted and the party concerned is either unwilling to make the information public or to authorize information unless it can be demonstrated to his/her satisfaction from appropriate sources that the information is correct.

SEC. 11. Determination of Serious Injury or Threat Thereof. - In reaching a positive determination that the increase in the importation of the product under consideration is causing serious injury or threat thereof to a domestic industry producing like products or directly competitive products, all relevant factors having a bearing on the situation of the domestic industry shall be evaluated. These shall include, in particular, the rate and amount of the increase in imports of the products concerned in absolute and relative terms, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

Such positive determination shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between the increased imports of the product under consideration and serious injury to the domestic industry. When factors other than increased imports are causing injury, such injury shall not be attributed to increased imports.

SEC. 12. Adoption of Definitive General Safeguard Measures. - The Commission shall complete its investigation and submit its report to the Secretary within one hundred twenty (120) days from receipt of the referral by the Secretary.

Upon its positive final determination, the Commission shall recommend to the Secretary an appropriate general safeguard measure, in the form of either a tariff adjustment, increase in tariff quota rate and/or reduction in the market access commitments or a quantitative import restriction. The general safeguard measure shall be limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports: *Provided*, however, that when a quantitative import restriction is used, such a measure shall not reduce the quantity of imports below the average imports for the three (3) preceding representative years. The application of the general safeguard measure shall be governed by the provisions of Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

A general safeguard measure shall not be applied to a product originating from a developing country if its share of total imports of the product is less than three percent (3%): *Provided*, however, That developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total imports.

The decision imposing a general safeguard measure, the duration of which is more than one (1) year, shall include a schedule specifying the gradual liberalization of the said measure at regular intervals within the allowable time frames as specified in this Act for provisional, definitive, and extended general safeguard measures, as well as procedure for intermediate review. The industry benefiting from the application of a general safeguard measure shall be required to show positive adjustment within the allowable period. A general safeguard measure shall be terminated where the benefiting industry fails to show any improvement, as maybe determined by the Secretary.

The Secretary shall determine within fifteen (15) days from receipt of the reports, either by virtue of his office or in consultation with an appropriate Cabinet Committee, the mechanism for the implementation of the definitive general safeguard measure that shall be adopted. For this purpose, the appropriate Cabinet Committee shall be composed of the Secretaries of Trade and Industry, Agriculture, Finance, Socio-Economic Planning, and the Chairman of the Tariff Commission. Accordingly, the Secretary shall issue a written instruction to the heads of the concerned government agencies to implement the appropriate general safeguard measure as determined.

In the event of a negative final determination, or if the cash bond is in excess of the definitive safeguards duty assessed, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs, authorizing the return of the

cash bond or the remainder thereof, as the case may be, previously collected as provisional general safeguard measure within ten (10) days from the date a final decision has been made. Provided, that, the government shall not be liable for any interest on the amount to be returned. He shall not accept for consideration another petition from the same industry, with respect to the same imports of the product under consideration within one (1) year after the date of rendering such a decision.

SEC. 13. Compensation. - In the event that a definitive general safeguard measure is to be applied, the appropriate Cabinet Committee shall accord sympathetic consideration of requests from affected trading partners for compensation to maintain the balance of concessions reached under multilateral and regional trading arrangements. The recommendations of the Committee regarding compensation shall be included in the Department Order embodying the decision to impose a general safeguards measure.

SEC. 14. Duration and Review. - The period for implementing the general safeguard measure shall not exceed four (4) years and shall be limited to the period of time necessary to prevent or remedy injury and to facilitate adjustment on the part of the affected domestic industry.

If the duration of the general safeguard measure being implemented exceeds three (3) years, a mid-term review shall be conducted by the Commission on whether or not the conditions or the circumstance for the implementation of the general safeguard measure have changed after its implementation. Based on the report of the Commission, the Secretary shall decide on whether or not to continue and/or reduce the degree of the application of the general safeguard measure.

If it is necessary to extend the implementation of the general safeguard measure to prevent or remedy serious injury and provided there are indications that the domestic industry is improving, any interested party may apply for an extension at least one (1) year before the end of the initial application of the general safeguard measure by submitting to the Secretary concrete indicators to support the request. The Secretary shall refer the case to the Commission which shall conduct an investigation following the same procedures applied to the initial measure. On the basis of the report of the Commission and in consultation with the appropriate Cabinet Committee referred to in Section 13, the Secretary shall decide on whether or not to extend the measure. He shall also make an announcement to the public about the decision. If a decision to extend the general safeguard measure is made, it should be more liberal than the initial application and should be more liberal than the initial application and should continue to be liberalized over the remaining period of time allowable for the extension. The extent of the validity of the general safeguard measure including the period of extension and the period of application of the provisional measure shall not exceed a total of eight (8) years with the possible extension of another two (2) years.

SECTION 15. Reapplication. - The Secretary shall accept a petition for the reapplication of a general safeguard measure on a product only after two (2) years from the expiration of the period of the implementation of the general safeguard measure provided any decision to re-impose the general safeguard measure shall involve a period less than that of the previous application. However, a general safeguard measure with a duration of one hundred eighty (180) days or less may be applied again to the same product if:

- a) At least one (1) year has elapsed since the introduction of the general safeguard measure; and
- b) Such measure has not been applied on the same product more than twice in the five (5) years period immediately preceding the date of introduction of the measure.

SEC. 16. Consultations. - Members of the multilateral and regional trading arrangements shall be afforded adequate opportunity for consultations immediately after imposing a provisional general safeguard measure and prior to taking a definitive general safeguard measure.

SEC. 17. Notice of General Safeguard Measure. - The Secretary shall notify the concerned committees on safeguards of the multilateral and regional trading arrangements.

- a) When initiating an action relating to serious injury or threat thereof and the reasons for it;
- b) Before adopting a provisional general safeguard measure following a positive preliminary determination; and
- c) When applying or extending a definitive general safeguard measure following a positive final determination.

CHAPTER III. SPECIAL SAFEGUARD MEASURE

SEC. 18 . Authority to Impose the Special Safeguard Measure - The Secretary of Agriculture, hereinafter referred to as the Secretary, shall issue a Department Order requesting the Secretary of Finance to instruct the Commissioner of Customs to impose a special safeguard duty, on an agricultural product if:

- a) Its cumulative import volume in a given year exceeds its trigger volume, subject to the conditions stated in this Act, in a particular Section 6 below; or but not concurrently;

- b) Its actual C.I.F. import price is less than its trigger price subject to the conditions stated in this Act, in particular Section 21 below.

SEC. 19. Initiation of Action Involving Special Safeguard Measure. - Any person, whether natural or juridical, may request the Secretary to verify if a particular product can be imposed a special safeguard duty subject to the conditions set in Section 18 of this Act. The request shall include data which would show that the volume of imports of a particular product has exceeded its trigger volume or that the c.i.f. import price of a particular product has gone below its trigger price. The Secretary shall come up with a finding within five (5) working days from the receipt of a request.

The Secretary, may *motu proprio*, initiate the imposition of a special safeguard measure following the satisfaction of the condition for imposing the measure set in this Chapter.

SEC. 20. Determination of Special Duty Based on the Volume Test - The special safeguard duty allowed to be imposed on the basis of the volume test pursuant to Section 18 (a) of this Act shall determined as follows:

- a) The trigger volume referred to in Section 5(a) of this Act is the amount obtained, after adding the change in the annual domestic consumption of the agricultural product under consideration, for the two (2) preceding years for which data are available, to:
- i. One hundred twenty-five percent (125%) of the average annual volume of imports of the agricultural product under consideration in the three (3) immediately preceding years for which data are available, hereinafter referred to as the average import volume, if the market access opportunity is at most ten percent (10%); or
 - ii. One hundred ten percent (110%) of the average import volume, if the market access opportunity exceeds ten percent (10%) and is at most thirty percent (30%); or
 - iii. One hundred five percent (105%) of the average import volume, if the market access opportunity exceeds thirty percent (30%):

Provided, that if the change in the volume of domestic consumption mentioned above is not taken into account in computing the trigger volume, the trigger volume shall be equal to one hundred twenty five percent (125 %) of the average import volume for the immediate three (3) years preceding years for which data is available. *Provided*, further, that the trigger volume shall at least be one hundred five percent (105%) of the average imports of the agricultural product under consideration.

- b) The special safeguard duty to be imposed subject to the conditions stated under the volume test shall be appropriately set to a level not exceeding one-third of the applicable out-quota customs duty on the agricultural product under consideration in the year when it is imposed: Provided that this duty shall only be maintained until the end of the year in which it is imposed: provided, further, that this duty may be reduced or terminated in special cases such as when a shortage of a particular agricultural product exists, as determined by the Secretary.
- c) *In transitu* volumes of imports of the agricultural product under consideration at the time the special safeguard duty is imposed shall be exempted from the additional duty. However, such volumes shall be counted in the computation of the cumulative volume of imports of the said agricultural product for the following year.

SEC. 21. Determination of Special Safeguard Duty Based on the Price Test. - The additional duty allowed to be imposed on the basis of the price test pursuant to Section 18 (b) of this Act shall be determined as follows:

- a) The trigger price referred to in Section 18 (b) of the Act is the average annual c.i.f. import price or relevant price reference of the agricultural product under consideration from 1986 to 1988;
- b) The special safeguard duty to be imposed subject to the conditions stated under Sec. 18 (b) of this Act be computed as follows:
 - i. Zero, if the price difference is at most ten percent (10%) of the trigger price; or
 - ii. Thirty percent (30%) of the amount by which the price difference exceeds ten percent (10%) of the trigger price, if the said difference exceeds ten percent (10%) but is at most forty percent (40%) of the trigger price; or
 - iii. Fifty percent (50%) of the amount by which the price difference exceeds forty percent (40%) of the trigger price, plus the additional duty imposed under Sec. 21 (b)ii, if the said difference exceeds forty percent (40%) but is at most sixty percent (60%) of the trigger price; or
 - iv. Seventy percent (70%) of the amount by which the price difference exceeds sixty percent (60%) of the trigger price, plus difference exceeds sixty percent (60%) and is at most seventy-five percent (75%) of the trigger price; or
 - v. Ninety percent (90%) of the amount by which the price difference exceeds seventy-five percent (75%) of the trigger price; plus the additional duties

imposed under Sec. 21 (b)ii, 7(b)iii, and 7(iv), if the said difference exceeds seventy-five percent (75%) of the trigger price.

As far as practicable, a special safeguard measure determined under the provision of this Section shall not be resorted to when the volume of the imported agricultural product under consideration is declining.

SEC. 22. Agricultural Products Subject to Minimum Access Volume Commitments.

- The Special safeguard duty shall not apply to the volumes of the imported agricultural product under consideration that are brought into the country under the minimum access volume mechanism: Provided however that these volumes shall be included in computing the cumulative volume of imports of the said agricultural product pursuant to Sec. 18 (a) of this Act.

SEC. 23. Perishable and Seasonable Agricultural Products. - Shorter time periods and different reference prices may be used in determining the applicable special safeguard measure taking into account the special safeguard measure taking into account the special characteristics of perishable and seasonal agricultural imports.

SEC. 24. Notice of Special Safeguard Measure. - The Secretary shall make the administration of the safeguard measure transparent by giving notice in writing to the WTO Committee on Agriculture, in advance to the extent practicable, but in any event within ten (10) days from the implementation of such a measure: *Provided*, however, that for perishable and seasonal agricultural products, notification shall be make from the first action in any period.

The notice shall include relevant data or as may be deemed necessary, information and methods used in cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under Chapter III of this Act.

Where a special safeguard measure action is taken under the provisions of this Act, the Secretary shall consult with interested WTO members and provide all relevant information on the conditions of the application of such action.

CHAPTER IV. MISCELANEOUS PROVISIONS

SEC. 25. Judicial Review. - Any interested party who is adversely affected by the ruling of the Secretary of Agriculture in case of special safeguard measure or the Court of Tax Appeals, either by personal delivery or by registered mail, a petition for the review of such ruling within thirty (30) days from receipt of the ruling: Provided, however, that the filing of such petition for review shall not in any way stop, suspend or otherwise toll the imposition or collection, as the case may be.

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 in appeals in connection with adverse rulings on tax matters to the Court of Appeals.

SEC. 26. Prohibition of Concurrent Recourse to Safeguard Measures. - There shall be no recourse to the use of general safeguard measure under Chapter II of this Act concurrently with the special safeguard measure as provided for under Chapter III of this Act and vice-versa: Provided, that the special safeguard measures for agricultural product shall lapse with the duration of the reform process in agriculture as determined in the WTO. Thereafter, recourse to safeguard measures shall be subject to the provisions of general safeguard measures as provided in Chapter II of this Act.

SEC. 27. Issuance of Implementing Rules and Regulations. - Within sixty (60) days after the effectivity of this Act, the Department of Agriculture and Trade and Industry, in consultation with the Department of Finance, the Bureau of Customs, the National Economic and Development Authority and the Tariff Commission shall promulgate the necessary rules and regulations to effectively implement this Act.

SEC. 28. Administrative System Support. - Upon the effectivity of this Act, any sum as may be necessary for the Departments of Trade and Industry and Agriculture and the Tariff Commission to undertake their functions efficiently and effectively shall be included in the General Appropriations Act.

The aforementioned government agencies are hereby authorized to collect such fees and charges that are deemed necessary. The revenue collected from these fees and charges shall be set aside in a Remedies Fund which shall be earmarked for the use of these agencies in the implementation of remedies, including the safeguard measure.

SEC. 29. Separability Clause. - If any provision of this Act is held invalid, the other provisions of this Act not affected shall remain in force and effect.

SEC. 30. Repealing Clause. - All laws, decrees, 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.

SEC. 31. Effectivity Clause. - This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the Official Gazette, whichever comes earlier.

Approved,