

THIRD SPECIAL SESSION**Session No. 1**

Monday and Tuesday

July 17 and 18, 2000

CALL TO ORDER

At 3:19 p.m., Monday, July 17, the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Ramon B. Revilla Jr. offered the following prayer:

Amang Makapangyarihan, kami ay nagpupuri at sumasamba sa Iyong kadakilaan. Naririto kami ngayon sa pasimula ng pagpupulong ng Ikatlong Di-Pangkaraniwang Sesyon ng Ika-Labing Isang Kongreso upang gumanap sa iniatang na tungkulin ng sambayanang manghahalal.

Sa mga bagay na aming tatalakayin ngayon, hiling namin sa Iyong mapagpalang pagsubaybay at kalinga na nawa'y ang anumang bagay na mapagkakaisahan ay maging kalugud-lugod sa Inyong kalooban.

Ama, batid Po Ninyo ang lahat ng lumiligalig sa sambayanan. Nariyan ang kailan lang nangyaring sakuna na kumitil ng maraming buhay ng mga kapos-palad na naninirahan sa tambakan ng basura sa Payatas. Hiling namin na sana'y kalamayin Mo ang kalooban ng mga naulila at tanggapin Mo sa Iyong maluwalhating kaharian ang mga pumanaw upang matamasa nila ang kaligayahang hindi nila naranasan dito sa mundong ibabaw.

Ama, nariyan din ang libu-libong biktima ng kalamidad na dulot ng katatapos na bagyong "Edeng" at "Ditang." Nawa'y sa kabila ng kahirapang kanilang dinanas ay huwag silang mawalan ng pag-asa, manapa ay higit na magtiwala sa Inyo.

Ama, itinataas din namin sa Iyo ang tensyon na nagaganap sa kaguluhan sa Mindanao. Nawa'y ang magkabilang panig, lalung-lalo na ang mga rebeldeng Muslim, ay maliwanagan na hindi digmaan o paggamit ng

armas ang kalutasan ng kanilang mga karaingan. Nawa'y ang galit na namumuhay sa kanilang puso ay mapalitan ng higit na pang-unawa at pagmamahal nang sa gayon ay maghari ang kapayapaan.

Tanging Ikaw lamang ang may kakayanan na ang lahat ng aming mga isinasamo ay magkaroon ng kaganapan.

Ang lahat ng mga ito ay hinihiling namin sa pamamagitan ni Kristo na Iyong Anak, kasama ang Espiritu Santo, Amen.

NATIONAL ANTHEM

The Senate Choir led the singing of the national anthem.

PROCLAMATION NO. 334

Upon direction of the Chair, the Acting Secretary of the Senate, Emma Lirio-Reyes, read Proclamation No. 334, to wit:

CALLING THE CONGRESS OF THE PHILIPPINES TO A SPECIAL SESSION

Pursuant to the powers vested in me by the Constitution, I, JOSEPH EJERCITO ESTRADA, President of the Philippines, do hereby call the Congress of the Philippines to a Special Session from July 17 to 21, 2000 to urgently consider the ratification of bicameral committee reports and the enactment of the following vital legislative measures, to wit:

- Power Sector Reform;
- Securities Regulation and Enforcement Act;
- ARMM Elections;
- New Central Bank Act;
- Shift in the System of Customs Valuation;
- Safeguard Measures Against Import Surge; and
- Modernization of the PRC

disagreeing provisions of Senate Bill No. 1404 and House Bill No. 10615.

**CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 2033 AND
HOUSE BILL NO. 7613**

Upon motion of Senator Tatad, there being no objection, the Body considered the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2033, entitled

**AN ACT PROTECTING LOCAL
INDUSTRIES BY PROVIDING
SAFEGUARD MEASURES TO BE
UNDERTAKEN IN RESPONSE TO
IMPORT SURGES**

and House Bill No. 7613, entitled

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

The Chair recognized Senator Enrile, Chairman of the Senate panel, to sponsor the report.

INQUIRY OF SENATOR ENRILE

At this juncture, Senator Enrile asked whether the session should be continued since many of the senators had already left the session hall. He stressed that it was about time that a certain degree of discipline was maintained so that the Senate could perform its legislative functions, especially when very important measures have to be considered.

Senator Tatad agreed that indeed important measures deserve to be reported out in the presence of most, if not all, of the Members.

SUSPENSION OF SESSION

Upon motion of Senator Tatad, the session was suspended.

It was 5:09 p.m.

RESUMPTION OF SESSION

At 5:10 p.m., the session was resumed.

INQUIRY OF SENATOR OSMEÑA (S)

Senator Osmeña (S) asked whether it is parliamentary correct to suspend the session to allow the senators to return to the session hall whenever a question of quorum is raised.

Senator Enrile clarified that he did not raise a question of quorum but merely inquired whether the proceedings can be continued in the absence of many of the Members. He said that it was Senator Tatad who decided to wait for the other senators to return to the session hall.

Senator Osmeña reiterated his query whether it is proper to intervene with a motion to suspend when a Member raises a question of quorum. Senator Tatad replied that a question of quorum should be acted upon immediately.

**SPONSORSHIP REMARKS
OF SENATOR ENRILE**

At the outset, Senator Enrile said that the Bicameral Conference Committee Report had been signed by all the members of the Senate panel, with the exception of Senator Magsaysay.

Senator Enrile recalled that when the Senate ratified the World Trade Organization Agreement in 1994, there was much optimism that adherence to the WTO would bring prosperity to the country. He said that the argument then was that non-adherence to the WTO would isolate the country from the rest of the world.

Agreeing that the country should be a member of the international economic community, Senator Enrile nevertheless underscored that lawmakers should have exercised prudence and caution. He pointed out that the lawmakers incorrectly assumed that the country had an industrial and agricultural base strong enough to weather the onslaught of

foreign competition and enough safety nets to safeguard the capital investments of businessmen and the income of fishermen, farmers and workers. He surmised that the current economic malaise, the contraction of industries, and even the contraction in employment were partly caused by the country's adherence to the WTO Agreement.

Moreover, Senator Enrile expressed doubt whether the safety nets envisioned by the legislators during the debates on the WTO Agreement were measured in terms of pesos and centavos in favor of the affected business sectors in the country or in terms of what were allowed by the WTO. He lamented that the promised safety nets in the form of financial aid, infrastructure, irrigation systems, post-harvest facilities, liberalized international trading system and other marketing strategies have not materialized because the Philippines did not have the financial muscle to back up the plan. The negotiators of the treaty, he added, were reckless in committing the country at a time when the pressure of immense foreign competition was being exerted on the domestic products in the market, to the detriment of the Filipino workers, farmers and fishermen.

For instance, he noted that Agriculture Secretary Edgardo Angara could be involved in a litigation with people who wanted to import into the country chicken parts at a much lower price, under the terms of the WTO Agreement, to the prejudice of the country's poultry industry.

Thereafter, Senator Enrile enumerated the following salient points of the report:

1. The Senate version was adopted as the working draft;
2. An omnibus amendment replacing the words "article, commodities, and goods" with the word PRODUCT was approved;
3. Certain definitions in Section 4 were modified, to wit:

a. "AGRICULTURAL PRODUCT" REFERS TO A SPECIFIC COMMODITY UNDER CHAPTERS 1 TO 24 OF THE HARMONIZED SYSTEM (HS)

OF COMMODITY CLASSIFICATION AS USED IN THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES;

b. "CONSUMER" REFERS TO NATURAL PERSONS OR ORGANIZED CONSUMER GROUP WHO ARE PURCHASERS, LESSEES, RECIPIENTS, OR PROSPECTIVE PURCHASERS, LESSEES, RECIPIENTS OF CONSUMER PRODUCTS, SERVICES OR CREDITS;

c. "CRITICAL CIRCUMSTANCES" SHALL MEAN CIRCUMSTANCES WHERE THERE IS *PRIMA FACIE* EVIDENCE THAT INCREASED IMPORTS, WHETHER ABSOLUTE OR RELATIVE TO DOMESTIC PRODUCTION, ARE A SUBSTANTIAL CAUSE OF SERIOUS INJURY OR THREAT THEREOF TO THE DOMESTIC INDUSTRY AND THAT DELAY IN TAKING ACTION UNDER THIS ACT WOULD CAUSE DAMAGE TO THE INDUSTRY THAT WOULD BE DIFFICULT TO REPAIR;

d. "MINIMUM ACCESS VOLUME (MAV)" IS THE AMOUNT OF IMPORTS OF AN AGRICULTURAL PRODUCT ALLOWED TO BE IMPORTED INTO THE COUNTRY AT A CUSTOMS DUTY LOWER THAN THE OUT-QUOTA CUSTOMS DUTY;

e. "SUBSTANTIAL COST" MEANS A COST WHICH IS IMPORTANT BUT NOT LESS THAN ANY OTHER COST;

4. On Section 4, "Definitions," paragraphs G, O and R were deleted and the succeeding paragraphs were relettered;

5. Section 5 was amended to read as follows:

SECTION 5. *CONDITIONS FOR THE APPLICATION OF GENERAL SAFEGUARD MEASURES.* - THE SECRETARY SHALL APPLY A GENERAL SAFEGUARD MEASURE UPON A POSITIVE FINAL DETERMINATION OF THE COMMISSION THAT A PRODUCT IS BEING IMPORTED INTO THE COUNTRY IN INCREASED QUANTITIES, WHETHER ABSOLUTE OR RELATIVE TO THE DOMESTIC PRODUCTION, TO BE A SUBSTANTIAL CAUSE OF SERIOUS INJURY OR THREAT THEREOF TO THE DOMESTIC INDUSTRIES; HOWEVER, IN THE CASE OF NON-AGRICULTURAL PRODUCTS, THE SECRETARY SHALL FIRST ESTABLISH THAT THE APPLICATION OF SUCH SAFEGUARD MEASURES WILL BE IN THE PUBLIC INTEREST.;

6. On Section 7, "Preliminary Determination," the word and figure "sixty (60)" were replaced with THIRTY (30);
7. On Sections 6, 7 and 8, an omnibus amendment was approved which reworded the phrase "that increased imports of the product under consideration have caused or are threatening to cause serious injury to the domestic industry" to THAT INCREASED IMPORTS OF THE PRODUCT UNDER CONSIDERATION ARE A SUBSTANTIAL CAUSE OF, OR THREATEN TO SUBSTANTIALLY CAUSE, SERIOUS INJURY TO THE DOMESTIC INDUSTRY;
8. In the last paragraph of Sections 8 and 13, respectively, the phrase "levels of one hundred percent (100%) of

existing tariff rate" was replaced with LEVELS OF TARIFF;

9. On Section 9, last paragraph, the word and figure "thirty (30)" were changed to SIXTY (60);
10. On Section 11, the first paragraph was amended as follows:

SECTION 11. *ADJUSTMENT PLAN.* - IN THE COURSE OF ITS INVESTIGATION, THE COMMISSION SHALL ISSUE APPROPRIATE NOTICE TO REPRESENTATIVES OF THE CONCERNED DOMESTIC INDUSTRY OR OTHER PARTIES, TO SUBMIT AN ADJUSTMENT PLAN TO IMPORT COMPETITION, WITHIN FORTY-FIVE (45) DAYS UPON RECEIPT OF THE NOTICE, EXCEPT WHEN THE SECRETARY CERTIFIES THAT THE SAME IS URGENT, IN WHICH CASE, THE ADJUSTMENT PLAN MUST BE SUBMITTED WITHIN THIRTY (30) DAYS;

11. On Section 13, subparagraph (b) was amended as follows:

(b) A DECREASE IN OR THE IMPOSITION OF TARIFF RATE QUOTA (MAV) ON THE PRODUCT;

12. On the same Section, the second paragraph was amended as follows: THE COMMISSION MAY ALSO RECOMMEND OTHER ACTIONS, INCLUDING THE INITIATION OF INTERNATIONAL NEGOTIATIONS TO ADDRESS THE UNDERLYING CAUSE OF THE INCREASE OF IMPORTS OF THE PRODUCT, TO ALLEVIATE THE INJURY OR THREAT THEREOF TO THE DOMESTIC INDUSTRY, AND TO FACILITATE

**POSITIVE ADJUSTMENT TO
IMPORT COMPETITION;**

13. On the same Section, third paragraph, after the word "years," the period (.) was changed to a comma (,) and the last sentence was reworded as follows: **UNLESS CLEAR JUSTIFICATION IS GIVEN THAT A DIFFERENT LEVEL IS NECESSARY TO PREVENT OR REMEDY A SERIOUS INJURY;**
14. On the same Section, the sixth paragraph was modified as follows: **THE SECRETARY SHALL ISSUE A WRITTEN INSTRUCTION TO THE HEADS OF THE CONCERNED GOVERNMENT AGENCIES TO IMPLEMENT THE APPROPRIATE GENERAL SAFEGUARD MEASURE AS DETERMINED BY THE SECRETARY WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF THE REPORT;**
15. Section 16 was deleted and the succeeding sections were renumbered accordingly;
16. Section 6, paragraph A of the House version was adopted as the first paragraph of the new Section 21;
17. On the first proviso of Section 23, between the words "available" and "provided," the clause **UNLESS A CLEAR JUSTIFICATION IS GIVEN THAT A DIFFERENT LEVEL IS NECESSARY TO PREVENT OR REMEDY SERIOUS INJURY** was inserted;
18. On Section 24, after the figure "1988," the clause **UNLESS CLEAR JUSTIFICATION IS GIVEN THAT A DIFFERENT REFERENCE PRICE IS NECESSARY TO PREVENT OR REMEDY SERIOUS INJURY** was inserted;
19. Section 28 was captioned *Duration of Special Safeguard Measures*;

20. Section 8 of the House version was modified and adopted as Section 30 of the reconciled version;
21. Section 9 of the House version was amended and adopted as Section 33 of the reconciled version;
22. The title of the House version was modified and adopted as the title of the reconciled version and reads as follows: **"AN ACT PROTECTING LOCAL INDUSTRY BY PROVIDING SAFEGUARD MEASURES TO BE UNDERTAKEN IN RESPONSE TO INCREASED IMPORTS AND PROVIDING PENALTIES FOR VIOLATION THEREOF."**
23. In case of conflict between the statements or amendments in the explanatory statement and the provisions of the reconciled version of the two bills in the accompanying Conference Committee Report, the latter shall prevail.

Senator Enrile urged the Body to approve the Report so as to protect the local industries, the incomes of farmers and fishermen, and most especially, the jobs and incomes of industrial workers.

REMARKS OF SENATOR ROCO

Senator Roco pointed out that the Bicameral Conference Committee avoided using the phrase "pursuant to the World Trade Organization-GATT Agreements" which was found in the original draft of the bill as the conferees felt that the safeguard measures are not implementations pursuant to the WTO Agreement but are exemptions for the Philippines within the context of the WTO Agreement. Senator Enrile agreed as he pointed out that the safeguard measures do not in any way conflict with the provisions of the WTO Agreement.

Furthermore, Senator Roco stressed that these measures shall not contribute to anti-competitive tendencies and shall respect existing contracts. Senator Enrile agreed.

APPROVAL OF THE CONFERENCE COMMITTEE REPORT

Submitted to a vote and there being no objection, the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2033 and House Bill No. 7613 was approved by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Tatad, the session was suspended.

It was 5:43 p.m.

RESUMPTION OF SESSION

At 5:50 p.m., the session was resumed.

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1220 AND HOUSE BILL NO. 8015

Upon motion of Senator Tatad, there being no objection, the Body considered the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1220, entitled

THE SECURITIES ACT OF 1998

and House Bill No. 8015, entitled

THE SECURITIES ACT OF 2000.

SUSPENSION OF SESSION

Upon motion of Senator Tatad, the session was suspended.

It was 5:51 p.m.

RESUMPTION OF SESSION

At 5:53 p.m., the session was resumed.

Thereupon, the Chair recognized Senator Roco, Chairman of the Senate panel, to sponsor the report.

SPONSORSHIP REMARKS OF SENATOR ROCO

Senator Roco informed the Body that the report was arrived at after two extensive conference committee meetings and more than 10 meetings with the Technical Working Group, resulting in a com-

pact version of the bill entitled "The Securities Regulation Code" which could be better understood by lawyers and law students. He stated that the Code was partially enacted in response to the BW Resources scandal which arose from lax rules and monitoring of the Securities and Exchange Commission (SEC).

Senator Roco then enumerated the salient features of the reconciled version, to wit:

1. Declaration of Policy — this stresses the establishment of a socially conscious free market by encouraging the widest participation of ownership and enterprises, enhancing the democratization of wealth and the promotion of capital market, and protecting investors through full disclosures of securities transactions;
2. Definition of Terms — the definitions are concise.
3. Under the law, the SEC would be reorganized in order to strengthen it as an administrative agency and its quasi-judicial functions would be returned to the original trial courts. However, corporate disputes which have been submitted for final determination of the SEC and cases involving rehabilitation, bankruptcy and receiverships of financial institutions filed before June 30, 2000 would remain with the SEC.
4. The SEC commissioners shall have the same qualifications as the members of the Monetary Board. The salary or emoluments applicable to the Monetary Board would also be applicable to the SEC.
5. SEC shall have sufficient powers with respect to matters of commerce and securities and capital formation. Essentially, the registration and monitoring of securities are basically the same as in the old law.
6. Pre-need plans shall remain with the SEC although Congress could transfer the same to the Office of the Insurance