

RECORD OF THE SENATE

TUESDAY, AUGUST 25, 1998

ROLL CALL

OPENING OF THE SESSION

At 3:10 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 14th session of the First Regular Session of the 11th Congress is hereby called to order.

Let us stand for the opening prayer to be led by Sen. Ramon B. Magsaysay Jr.

Everybody rose for the prayer.

PRAYER

Senator Magsaysay. Thank you, Mr. President.

Diyos Ama, salamat po sa Inyong kabutihan.
Ang Inyong saganang habag ay aming lakas
sa bawat araw
Ang Inyong salita ay aming ilaw at gabay.
Sa Inyo kami umaasa,
Tulad ng mga batang walang mababalingan
Kundi ang kanilang mga magulang.

Sa bawat panahon, sa bawat desisyon,
Sa pagharap sa Inyong panawagan,
Panatilihin at pag-alabin N'yo ang
pananampalatayang
Kayo ang nagtanim sa aming puso.
At nawa ang pananampalatayang ito
Ay mamunga ng pag-ibig,
Para sa maliliit naming mga kababayan at kapatid;
Pag-ibig, hindi lamang para sa pamilya at kaibigan,
Ngunit para sa lahat, walang kinikilala at
walang kinikilingan.

Sa lahat ng ito, hayaan N'yong walang
hanggang papuri
At pagsamba ang aming tuwinang ibalik sa Inyo,
Kasabay po ang pag-aming
maliban na kami'y Inyong tulongan,
kami'y walang magagawa.

Ito po ang aming dalangin
Sa pamamagitan ng Inyong bugtong
na Anak na si Jesus,
Ang aming Panginoon at Tagapagligtas,

Amen.

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta	Present
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Absent
Senator Renato L. <i>Compañero</i> Cayetano	Present
Senator Anna Dominique M.L. Coseteng ..	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavieir	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	Present
Senator Sergio R. Osmeña III	Present
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Miriam Defensor Santiago	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
The President	Present

The President. With 22 senators present, the Chair declares the presence of a quorum.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

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.

Senator Drilon. I move that we proceed to the Reference of Business.

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

The Secretary will now read the Reference of Business.

The Secretary. Letter from Ms. Cheche L. Lazaro, president, Probe Productions Inc., informing the Senate of the acceptance of the franchise granted said company under Republic Act No. 8604.

The President. Referred to the Committee on Public Services

The Secretary. Letter from Mr. Ernesto D. Ramos, president, Western Batangas Telephone System Inc., informing the Senate of the acceptance of the franchise granted said company under Republic Act No. 8610.

The President. Referred to the Committee on Public Services

The Secretary. Letter from Mr. Florentino L. Ampil, general counsel, Philippine Association of Private Telephone Companies Inc. (PAPTELCO), informing the Senate of the acceptance of the franchise granted Marbel Telephone System Inc. under Republic Act No. 8449.

The President. Referred to the Committee on Public Services

The Secretary. Letter from Mr. Alfonso D. Ortega, Chairman of the Board, Baganian Broadcasting Corporation, informing the Senate of the acceptance of the franchise granted said company under Republic Act No. 8451.

The President. Referred to the Committee on Public Services

COMMITTEE REPORT

The Secretary. Committee Report No. 1, submitted jointly by the Committees on Ways and Means; and Constitutional Amendments, Revision of Codes and Laws on Senate Bill No. 763, introduced by Senator Enrile, entitled

AN ACT PROVIDING THE RULES FOR THE IMPOSITION OF AN ANTI-DUMPING DUTY, AMENDING FOR THE PURPOSE SECTION 301, PART 2, TITLE II, BOOK I OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY REPUBLIC ACT NO. 7843, AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsors: Senators Enrile and Roco

The President. To the Calendar for Ordinary Business

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

MOTION OF SENATOR DRILON
(Referral of S. Nos. 182 and 424 to the Committee on Banks, Financial Institutions and Currencies as Primary Committee and Committees on Government Corporations and Public Enterprises and Urban Planning, Housing and Resettlement as Secondary Committees)

Senator Drilon. Senate Bill No. 1107 was referred to the Committee on Banks, Financial Institutions and Currencies; and Government Corporations and Public Enterprises; and on Urban Planning, Housing and Resettlement.

Two previous bills of similar import were filed; these were Senate Bill Nos. 182 and 424. These were however referred to different committees.

In order that there will be a consolidated hearing on these three bills as they are on the same subject, I therefore move that the referrals of Senate Bill Nos. 182 and 424 be amended and these be referred to the committees to which Senate Bill No. 1107 was referred to, namely: Committee on Banks, Financial Institutions and Currencies, as the primary committee; and as secondary committees, Committee on Government Corporations and Public Enterprises, and Committee on Urban Planning, Housing and Resettlement.

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

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. For the privilege hour, Sen. Miriam Defensor Santiago has made a reservation. May we now ask the Chair to recognize Senator Santiago.

The President. Sen. Miriam Defensor Santiago is recognized for the privilege hour.

PRIVILEGE SPEECH OF SENATOR SANTIAGO
(Urban Poverty Reduction: Protecting the Poor)

Senator Santiago. Thank you, Mr. President.

Malacañang. In other words, there should be a more active role for the Vice President and who is at the same time, concurrently the Secretary of Social Welfare and Development. Why she has not been able to step into this breach could be corrected even at this late stage.

Senator Tatad. Salamat po sa sagot ng ating kaibigan. Panghuling salita na lamang po. Tungkol ito sa ating mga pulitiko na maraming ipinangangako pero hindi naman natutupad. Sana sa susunod na halalan ay mangampanya tayo pero huwag tayong mangangako.

Mayroon po akong natatandaang isang pulitiko na magaling pong mangako pero walang natutupad na pangako. Noong siya ay sinisingil ng kanyang mga kababayan ang sagot po niya ay napakagaling. "Kayong nakikinig lamang sa aking pangako, bakit kayo naniniwala samantalang ako mismong nangangako hindi naniniwala sa aking pangako?"

Marahil ang edukasyon ng ating masa ang isa sa mga puntong dapat bigyang diin upang maging maginhawa ang kalagayan ng nakararami. Kailangang maging mas matalino ang bayan upang makilala nila kung sino ang nagsasabi ng totoo at kung sino ang hindi.

Marami pong salamat, Ginoong Pangulo.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, there are no other reservations for interpellation. We thank our colleague from Iloilo for such profound analysis of the incident last week.

**MOTION OF SENATOR DRILON
(Referral of Senator Santiago's Speech together
with Senator Tatad's Interpellations Thereon to
the Committee on Social Justice, Welfare
and Rural Development)**

Senator Drilon. Mr. President, may we move that the speech of Senator Santiago, together with the interpellations thereon, be referred to the Committee on Social Justice, Welfare and Rural Development.

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

SPECIAL ORDERS

Senator Drilon. Mr. President, may I move that we transfer from the Calendar for Ordinary Business to the Calendar for

Special Orders, Committee Report No. 1 on Senate Bill No. 763, entitled

AN ACT PROVIDING THE RULES FOR THE IMPOSITION OF AN ANTI-DUMPING DUTY, AMENDING FOR THE PURPOSE SECTION 301, PART 2, TITLE II, BOOK 1 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY REPUBLIC ACT NO. 7843, AND FOR OTHER PURPOSES.

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

**BILL ON SECOND READING
S. No. 763—Rules for the Imposition of
the Anti-dumping Duty**

Senator Drilon. Mr. President, I move that we consider Senate Bill No. 763 as reported out under Committee Report No. 1.

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

Consideration of Senate Bill No. 763 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 763, entitled

AN ACT PROVIDING THE RULES FOR THE IMPOSITION OF AN ANTI-DUMPING DUTY, AMENDING FOR THE PURPOSE SECTION 301, PART 2, TITLE II, BOOK 1 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY REPUBLIC ACT NO. 7843, AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 763

AN ACT PROVIDING THE RULES FOR THE IMPOSITION OF AN ANTI-DUMPING DUTY, AMENDING FOR THE PURPOSE SECTION 301, PART 2, TITLE II, BOOK 1 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY REPUBLIC ACT NO. 7843, AND FOR OTHER PURPOSES

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

SECTION 1. Section 301, Part 2, Title II, Book 1 of the Tariff and Customs Code, as amended by Republic Act No. 7843, is hereby further amended to read as follows:

“SEC. 301. *Dumping Duty.* -

“[a. Whenever the Secretary of Finance or the Secretary of Trade and Industry (hereinafter called the “Secretary”) received an anti-dumping petition from the domestic industry or the Secretary has reason to believe, from any invoice or other document or newspaper, magazine or information or translation thereof by any reputable language translator made available by any government agency or interested party, that a specific kind or class of foreign article, is being imported into, or sold or is likely to be sold in the Philippines, at a price less than its normal value, the importation or sale of which might injure, retard the establishment of, or is likely to injure an industry producing like articles in the Philippines, the Secretary shall, within twenty (20) days from receipt of such petition or information, determine a *prima facie* case of dumping. Within five (5) days from such receipt, he shall notify the protestee-importer and require him to submit within ten (10) days from such notice, evidence from the producer of the imported article duly authenticated by the Philippine consular or trade office to support the normal value of such product. If no such evidence is submitted within the prescribed period, the Secretary shall base his decision on the available pertinent data.

“Pending determination of a *prima facie* case of dumping, the petitioner may petition that the release from the Bureau of Customs of the alleged dumped product be withheld. If the Secretary determines that on the face of the petition and documents presented, there exists an imminent danger of injury to a particular industry as a result of the alleged dumping, he shall direct the Commissioner of Customs to hold the release of the questioned importation, upon filing by the petitioner of a bond equal to the alleged margin of dumping. The bond shall answer for damages which the importer may suffer as a result of the holding of the release of the questioned importation, in case the Secretary finds

that there is no *prima facie* case. However, the petitioner’s liability for damage shall not exceed the amount of his bond. This bond shall be canceled once a *prima facie* case has been determined by the Secretary. The Secretary may, *motu proprio*, hold the release of the questioned articles based on his information that an imminent danger of injury exists to a particular industry as a result of the alleged dumping.

“The Secretary upon the determination of a *prima facie* case of dumping shall so advise the Tariff Commission (hereinafter called the “Commission”) and shall instruct the Commissioner of Customs to hold the release of the goods or articles in question, unless the protestee/importer shall have filed a cash bond of not less than the provisionally estimated dumping duty plus the applicable regular duty based on the documentary evidence submitted with the dumping protest to answer for the payment of such duties, fees and charges if a dumping case is established. If the protest is dismissed, the cash bond shall be returned to the importer within ten (10) days from the finality of the order.

“The Secretary shall have the discretion to exclude related parties from the domestic industry. A producer and an exporter or importer are related if the producer directly or indirectly controls the producer; a third party and there is a reason to believe that the relationship causes the producer to act differently than an unrelated producer would act.

“b. The Commission, upon receipt of the advice from the Secretary shall conduct an investigation to:

“1. Verify if the kind or class of article in question is being imported into, or sold or is likely to be sold in the Philippines at a price less than its normal value;

“The normal value of an article shall be the comparable price in the ordinary course of trade for the like articles when destined for domestic consumption in the exporting country which for purposes of this section means the country of production or manufacture.

“If the normal value of an article cannot be determined, the following rules shall apply:

"If the like article is not being sold in the ordinary course of trade in the domestic market of the exporting country or if the sale does not allow a fair comparison or if the normal value is not available or unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party or the agency providing the normal value is state-controlled or jointly owned by the state or the exporting country, or where products are not imported directly from the country of production then, the normal value shall be based on the higher of values determined from any of the following methods, such as but not limited to, the normal value of like articles in a proxy country at the same stage of development of the industry producing like products, or the cost of production in the country of production or manufacture or on the estimated landed cost in the country of production or manufacture which is based on C and F price of such articles including duties, surcharges, and taxes when imported by an importer in the country of production.

"2. Ascertain the difference, if any, between the export price and the normal value of the article.

"3. Determine if, as a result thereof, a domestic industry producing like articles in the Philippines suffers, or will be threatened with, injury, or will suffer a material retardation of the establishment of a domestic industry in the Philippines: *Provided*, That in determining whether the domestic industry has suffered or is being threatened with injury, the Commission shall determine whether the wholesale prices at which the domestic articles are sold are reasonable, taking into account the cost of raw materials, labor, overhead, a fair return on investment and the overall efficiency of the industry; and/or whether a further importation of such articles and/or like articles are clearly foreseen and imminent considering such relevant factors as:

"(a) Rate of increase of importation of such article: *Provided*, That in the determination of potential injury, there should be at least three percent (3%) increase in the volume of importation of such articles being dumped relative to the average monthly volume of importation of such like articles for the immediately preceding three (3) months; or

"(b) Reasonable likelihood of increased importations; or

"(c) Freely disposable or increased capacity of the exporter of such imported articles; or

"(d) Import prices which will have a significant depressing or suppressing effect on domestic prices: *Provided, further*, That in determining whether a domestic industry that will produce like articles is being retarded in its establishment, there must be evidence of the forthcoming commercial operation of the industry: *Provided, finally*, That in determining injury, the following shall also be considered:

"i. Whether or not the imported articles under consideration are identical or alike in all respect to articles produced by the domestic industry or substantially of the same material or although of different composition or material serves the same or similar purpose such as substitute as the articles produced in the Philippines in quantities sufficient to supply at least ten percent (10%) of local consumption (arrived at by taking the sum of the average local production and average importation and subtracting therefrom average exportation) for the immediately preceding three (3) months prior to the filing of the dumping protest;

"ii. The volume of dumped imports and their effects on prices in the domestic market for like articles: *Provided*, That the Commission shall determine the consequent impact of these imports on domestic producers by considering relevant economic factors and indices such as:

"(a) Five percent (5%) decline in sales volume or decline in sales price of at least two percent (2%) as compared to the average monthly sales for the immediately preceding three (3) months; or

"(b) Five percent (5%) decline in the volume of production as compared to the average monthly volume of production for the immediately preceding three (3) months; or

"(c) Actual and potential negative effects on employment and inventories of the subject articles.

"Within five (5) days from receipt of the advice from the Secretary of Finance, the Commission shall identify all parties concerned and require them to submit their respective memoranda within fifteen (15) days from notice.

"C. The Commission shall terminate its investigation within ninety (90) days from receipt of the aforesaid advice and shall submit its findings to the Special Committee on Anti-Dumping (hereinafter referred to as "Special Committee") within sixty (60) days from the termination of its investigation: *Provided*, That the Commission shall give notice to interested parties of such findings submitted to the special committee.

"In case any or all of the parties on record fail to submit their respective memoranda within the period prescribed above, the Commission shall base its findings on the best available evidence.

"The Commission shall *motu proprio* terminate its investigation if the provisionally estimated margin of dumping is less than two percent (2%) of export price or the volume of dumped imports is negligible. The volume of dumped imports from a particular country accounts for less than three percent (3%) of the average monthly imports of the like articles in the Philippines unless countries which individually account for less than three percent (3%) of the average monthly imports of the like articles in the Philippines collectively account for more than seven percent (7%) of total average monthly imports of that article.

"D. The Special Committee shall, within fifteen (15) days after receipt of the report of the Commission, decide whether the article in question is being imported in violation of this section and shall give due notice of such decision. In case the decision of dumping is in the affirmative, the special committee shall direct the Commissioner of Customs to cause the dumping duty, to be levied, collected and paid, as prescribed in this section, in addition to any other duties, taxes and charges imposed by law on such article, and on the articles of the same specific kind or class subsequently imported under similar circumstances coming from the specific country.

"In the event that the Special Committee fails to decide within the period prescribed herein, the recommendation of the Commission shall be deemed approved and shall be final and executory.

"E. The 'dumping duty' as provided for in subsection D hereof shall be equal to the difference between the actual export price and the normal value of the article as determined in the dumping

decision. All importations of like articles within one hundred fifty (150) days immediately preceding the filing protest are covered by the investigation. However, in cases of subsequent importations of same kind or class of article from the specific country named in the protest, the dumping duty shall be equal to the difference between the actual export price and the normal value actually existing at the time of importation as determined by the Commission from the supporting documents submitted or from other reliable sources.

"F. Pending investigation and final decision of the case, the article in question, and articles of the same specific kind or class subsequently imported under similar circumstances, shall be released to the owner, importer, consignee or agent upon the giving of a case bond in an amount not less than the provisionally estimated difference between the actual export price and the normal value including the applicable regular duty prescribed in paragraph "a" above.

"G. For purposes of this section, the parties concerned including the protestant, domestic producers/manufacturers, importers and the protestee shall be afforded with the Commission and the Secretary and avail of any technical information and the data necessary to sustain its case.

"H. Any interested party of record who is dissatisfied with a decision in a dumping protest may file a motion for reconsideration with the Special Committee within thirty (30) days from notice of such decision: *Provided*, That no motion for extension of time to file a motion of reconsideration under this subsection shall be allowed.

"I. Any aggrieved party may appeal only the amount of the dumping to the Court of Appeals in the same manner and within the same period as provided for by law in the case of appeal from decision of the Commissioner of Customs. The findings of fact in a dumping case shall be final and conclusive.

"J. (1) The article, if it has not been previously released under cash bonds as provided for in subsection "F" hereof, shall be released after payment by the party concerned of the corresponding dumping duty in addition to any ordinary duties, taxes, and charges, if any, or reexported by the owner, importer, consignee or agent, at his option and

expense, upon the filing of a such cash bond in an amount not less than the provisionally estimated difference between the actual export price and the normal value plus the applicable regular duty conditioned upon presentation of landing certificate issued by a consular officer of the Philippines at the country of destination: or

(2) If the article has been previously released under cash bond, as provided in subsection "F" hereof, the party concerned shall be required to pay the corresponding dumping duty in addition to any ordinary duties, taxes, and charges, if any.

"K. Any investigation to be conducted by the Commission under this section shall include a public hearing or hearings where the owner, importer, consignee or agent, of the imported article, the local producers or manufacturers of a like article, other parties directly affected, and such other parties as the judgment of the Commission are entitled to appear, shall be given an opportunity to be heard and to present evidence bearing on the subject matter.

"L. The established dumping duty shall be subject to adjustment based on whichever is higher of the prevailing normal values as defined in paragraph b-1. The Commission shall conduct quarterly examination and/or verification of the normal value to determine the necessity of adjustment. Should the Special Committee, upon receipt of the report of the Commission, find that there is a need for an adjustment after a public hearing it shall advise the Commissioner of Customs so that he may effect the necessary adjustment in dumping duty.

"The Philippine Finance Attaché or, in the absence thereof, the Commercial Attaché or, Trade Attaché or in the absence thereof, the diplomatic officer or consular officer aboard shall be advised by the Special Committee of any article covered by dumping decision. The concerned Attaché or the Officer shall submit quarterly report on normal values of said articles to the Special Committee.

"M. Whenever the Commission, on its own motion or upon application of any interested party, finds after a public hearing that any of the conditions which necessitated the imposition of the dumping duties has ceased to exist, it shall submit the necessary recommendation to the Special Committee

for the discontinuance or modification of such dumping duty and shall so advise the Commissioner of Customs. Any decision or order made under this Section by the Special Committee shall be published in the *Official Gazette* and/or in a newspaper of general circulation.

"N. Any dumping decision promulgated by the Special Committee 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 Special Committee shall advise the Commission to conduct an investigation to determine whether any of the conditions in paragraph b-1 and b-3 still exists. The action for extension shall be brought before the Special Committee at least six (6) months before the expiration of the period.

"The findings of the Commission shall be submitted to the special committee at least three (3) months before the expiration of the period but in no case shall it exceed one (1) month after receipt of the advice from the Special Committee.

"The period of extension shall, in no case, exceed twenty-four (24) months or two (2) years.

"O. For the purpose of this Section, the term:

"1. "Comparable price" shall mean the domestic price in the exporting country at the same level of trade which is sold or offered for sale at wholesale on the date of exportation to the Philippines;

"2. "Cost of production" of an imported article shall be the sum of:

(a) The cost of materials of, and of fabrication, manipulation or other process employed in manufacturing or producing like articles, at a time preceding the date of shipment of the particular article under consideration which would ordinarily permit the manufacture or production of the particular article under consideration in the usual course of business;

"(b) The actual administrative, selling and general expenses at least ten percent (10%) of production costs incurred by the exporter or producer of articles and/or like articles;

“(c) The cost of all containers and coverings, and all other costs, charges and expenses incident to placing the particular article under consideration in condition, packed ready for shipment to the Philippines but not less than one percent (1%) of production costs; and

“(d) A reasonable amount for profit not less than eight percent (8%) of the sum of the amounts referred to in the preceding sub-paragraphs a,b, and c.

“3. “Domestic industry” shall refer to the domestic producers of like articles as a whole or to those whose collective output of the products constitute a significant share of the total domestic production of those products in the industries concerned. Except, when producers are related to the exporters or importers, the term “domestic industry” may be interpreted as referring to the rest of the producers;

“4. “Export price” of an imported article shall be the price at which such article has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the article is imported, plus, when not included in such price;

“(a) The case of all containers and covering and all other costs, charges and expenses incident to placing the article in condition, packed ready for shipment to the Philippines;

“(b) The amount of any import duties imposed by the country of exportation which have not been collected, by reason of the exportation of the articles to the Philippines; and

“(c) The amount of any taxes imposed in the country of exportation upon the manufacturer, producer or seller, in respect to the manufacture, production or sale of the article which have been rebated, or which have not been collected by reasons of the exportation of the articles to the Philippines.

“Any additional costs, charges and expenses incident to bringing the article from the place of shipment in the country of exportation to the place of delivery in the Philippines, and Philippine customs duties’ imposed thereon shall not be included.

“5. “Like article” shall mean a product which is identical or alike in all respect to the article under consideration or one substantially of the same material or although of different composition or material serves the same or similar purpose, such as a substitute, as the articles produced in the Philippines;

“6. A special committee on anti-dumping is hereby created to decide whether the article in question is being imported in violation of this Act, and shall be composed of three (3) members: The Secretary of Finance, as chairman; the Secretary of Trade and Industry; and either the Secretary of Agriculture, if the article in question is an agricultural product; or the Secretary of Labor, if the article is a non-agricultural product.

“P. The Secretary of Finance in consultation with the special committee on anti-dumping and the Commission shall promulgate all rules and regulations necessary to carry out their respective functions under this Section.]”

A. WHENEVER ANY PRODUCT, COMMODITY OR ARTICLE OF COMMERCE IS IMPORTED INTO THE COUNTRY AT LESS THAN ITS NORMAL VALUE IN THE ORDINARY COURSE OF TRADE, FOR THE LIKE PRODUCT, COMMODITY OR ARTICLE DESTINED FOR CONSUMPTION IN THE PHILIPPINES, AND IS CAUSING OR IS THREATENING TO CAUSE MATERIAL INJURY TO A DOMESTIC INDUSTRY, OR MATERIALLY RETARDING THE ESTABLISHMENT OF SUCH AN INDUSTRY PRODUCING LIKE PRODUCTS AS 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 FINDING OF THE TARIFF COMMISSION (HEREINAFTER REFERRED TO AS “THE COMMISSION”) TO HAVE CAUSED OR THREATENS A MATERIAL INJURY TO A DOMESTIC INDUSTRY, OR MATERIALLY RETARDS THE ESTABLISHMENT OF SUCH

A DOMESTIC INDUSTRY PRODUCING LIKE PRODUCTS, A DUMPING DUTY SHALL BE LEVIED AND COLLECTED ON SUCH PRODUCT, COMMODITY OR ARTICLE THEREAFTER IMPORTED TO THE PHILIPPINES UNDER SIMILAR CIRCUMSTANCES, IN ADDITION TO ORDINARY DUTIES, TAXES AND CHARGES IMPOSED BY LAW ON THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

B. INITIATION OF ACTION. - AN ANTI-DUMPING INVESTIGATION SHALL BE INITIATED BY ANY PERSON WHETHER NATURAL OR JURIDICAL UPON FILING A VERIFIED PETITION WHICH SHALL BE ACCOMPANIED BY DOCUMENTS CONTAINING INFORMATION SUPPORTING THE FACTS THAT ARE ESSENTIAL TO ESTABLISH THE PRESENCE OF THE ELEMENTS REQUIRED FOR THE IMPOSITION OF AN ANTI-DUMPING DUTY, AND SHALL FURTHER STATE, AMONG OTHERS: 1) THE IDENTITY OF THE APPLICANT AND A DESCRIPTION OF THE VOLUME AND THE VALUE OF THE DOMESTIC PRODUCT OR THE LIKE PRODUCT OF THE APPLICANT; 2) A COMPLETE DESCRIPTION OF THE ALLEGED DUMPED PRODUCT, THE NAMES OF THE COUNTRY OR COUNTRIES OR ORIGIN OR EXPORT IN QUESTION, THE IDENTITY OF EACH KNOWN EXPORTER OR FOREIGN PRODUCER AND A LIST OF KNOWN PERSONS SUPPORTING THE PRODUCT IN QUESTION; 3) INFORMATION ON THE NORMAL VALUE OF THE PRODUCT IN QUESTION IN THE COUNTRY OR COUNTRIES OF ORIGIN OR EXPORT; 4) INFORMATION ON THE EVALUATION OF THE VOLUME OF THE ALLEGED DUMPED IMPORTS, THE EFFECT OF THESE IMPORTS ON PRICES OF LIKE PRODUCT IN THE DOMESTIC MARKET AND THE CONSEQUENT IMPACT OF THE IMPORTS ON THE DOMESTIC INDUSTRY.

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 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 25 PERCENT OF TOTAL PRODUCTION OF THE LIKE PRODUCT PRODUCED BY THE DOMESTIC INDUSTRY.

IF, IN SPECIAL CIRCUMSTANCES, THE AUTHORITIES CONCERNED DECIDE TO INITIATE AN INVESTIGATION WITHOUT HAVING RECEIVED A WRITTEN APPLICATION BY OR ON BEHALF OF A DOMESTIC INDUSTRY FOR THE INITIATION OF SUCH INVESTIGATION, THEY SHALL PROCEED ONLY IF THEY HAVE SUFFICIENT EVIDENCE OF DUMPING, INJURY AND A CAUSAL LINK, TO JUSTIFY THE INITIATION OF AN INVESTIGATION.

C. NOTICE TO EXPORTING MEMBER-COUNTRY. - THE SECRETARY SHALL AVOID, UNLESS A DECISION HAS BEEN MADE TO INITIATE AN INVESTIGATION, ANY PUBLICIZING OF THE APPLICATION FOR THE INITIATION OF THE INVESTIGATION. HOWEVER, AFTER RECEIPT OF A PROPERLY DOCUMENTED APPLICATION AND BEFORE PROCEEDING TO INITIATE AN INVESTIGATION, THE SECRETARY SHALL NOTIFY THE GOVERNMENT OF THE EXPORTING MEMBER ABOUT THE IMPENDING ANTI-DUMPING INVESTIGATION.

D. NOTICE TO THE SECRETARY OF FINANCE - UPON RECEIPT OF THE PETITION, THE SECRETARY SHALL, WITHOUT DELAY, NOTIFY THE SECRETARY OF FINANCE AND FURNISH HIM WITH A COMPLETE COPY OF THE PETITION, INCLUDING ITS ANNEXES, IF ANY, AND THE LATTER SHALL IMMEDIATELY INFORM THE COMMISSIONER OF CUSTOMS REGARDING THE FILING AND PENDENCY OF THE PETITION. THE COMMISSIONER OF CUSTOMS SHALL FORTHWITH ISSUE AN ORDER REQUIRING

THE IMPOSITION OF A CASH BOND EQUAL TO THE AMOUNT OF DUMPING PROVISIONALLY ESTIMATED ON ALL PENDING IMPORTATIONS; AND FOR HIM TO GATHER, HOLD AND SECURE ALL IMPORT ENTRIES COVERING SUCH PRODUCT, COMMODITY OR ARTICLE WITHOUT LIQUIDATION; AND TO SUBMIT TO THE SECRETARY THROUGH THE SECRETARY OF FINANCE, AND TO MAKE SUCH SIMILAR ADDITIONAL REPORTS EVERY TEN (10) DAYS THEREAFTER.

E. 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.

F. 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 AN ANTI-DUMPING DUTY ON THE IMPORTED PRODUCT, COMMODITY OR ARTICLE.

UPON DETERMINATION BY THE SECRETARY OF THE EXISTENCE OF A *PRIMA FACIE* CASE, HE SHALL, WITHOUT DELAY, SECURE A WRITTEN SUPPORT FOR THE INITIATION OF THE FORMAL ANTI-DUMPING INVESTIGATION FROM THE AFFECTED DOMESTIC INDUSTRY PRODUCING TWENTY-FIVE PERCENT (25%) OR MORE OF LIKE PRODUCTS. TRANSMIT THE RECORDS OF THE CASE CONSISTING OF THE PETITION, THE ANSWER AND THE WRITTEN SUPPORT OF THE DOMESTIC INDUSTRY, 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 PRODUCT, COMMODITY OR ARTICLE UPON THE PAYMENT OF THE CORRESPONDING ORDINARY DUTIES, TAXES AND OTHER CHARGES IMPOSED BY THE LAW ON SUCH PRODUCT, COMMODITY OR ARTICLE AND ALSO UPON POSTING OF A CASH BOND EQUAL TO THE PROVISIONALLY ESTIMATED MARGIN OF DUMPING. THE CASH BOND SHALL BE DEPOSITED WITH THE 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.

G. INVESTIGATION OF 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 OF 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.

IN THE FORMAL INVESTIGATION, THE COMMISSION SHALL ESSENTIALLY DETERMINE: (1) THE PRESENCE AND EXTENT OF MATERIAL INJURY OR THE THREAT THEREOF TO DOMESTIC INDUSTRY, OR THE MATERIAL RETARDATION OF THE ESTABLISHMENT OF SUCH AN INDUSTRY PRODUCING LIKE OR DIRECTLY COMPETING PRODUCT; (2) THE EXISTENCE OF A CAUSAL RELATIONSHIP BETWEEN THE ALLEGEDLY DUMPED PRODUCT, COMMODITY OR ARTICLE AND THE MATERIAL INJURY OR THREAT OF MATERIAL INJURY TO THE AFFECTED DOMESTIC INDUSTRY, OR MATERIAL RETARDATION OF THE ESTABLISHMENT OF SUCH AN INDUSTRY; (3) THE ANTI-DUMPING DUTY TO BE IMPOSED; AND (4) THE DURATION OF THE IMPOSITION OF THE ANTI-DUMPING DUTY.

THE FORMAL INVESTIGATION SHALL BE CONDUCTED IN A SUMMARY MANNER. NO DILATORY TACTICS NOR UNNECESSARY 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.

H. DETERMINATION OF MATERIAL INJURY OR THREAT THEREOF. - THE

PRESENCE AND EXTENT OF MATERIAL INJURY OR THE PRESENCE AND DEGREE OF THE THREAT OF MATERIAL INJURY TO DOMESTIC INDUSTRY, AS A RESULT OF THE DUMPED IMPORTS SHALL BE DETERMINED BY THE COMMISSION ON THE BASIS OF POSITIVE EVIDENCE AND SHALL REQUIRE AN OBJECTIVE EXAMINATION OF (1) THE RATE AND AMOUNT OF IMPORTS, EITHER IN ABSOLUTE TERMS OR RELATIVE TO PRODUCTION OR CONSUMPTION IN THE DOMESTIC MARKET, (2) THE EFFECT OF THE DUMPED 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 DUMPED IMPORTS AS COMPARED WITH THE PRICE OF LIKE PRODUCT, COMMODITY OR ARTICLE IN AND/OR DOMESTIC MARKET, OR WHETHER THE EFFECTS OF SUCH IMPORTS IS OTHERWISE TO DEPRESS PRICES TO A SIGNIFICANT DEGREE OR PREVENT PRICE INCREASES, WHICH OTHERWISE WOULD HAVE OCCURRED, TO A SIGNIFICANT DEGREE; AND (3) THE RESULTING EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC PRODUCERS OR THE RESULTING RETARDATION OF THE ESTABLISHMENT OF A DOMESTIC INDUSTRY MANUFACTURING 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 OR POTENTIAL DECLINE IN OUTPUT SALES, MARKET SHARE, PROFITS, PRODUCTIVITY, RETURN ON INVESTMENTS, OR UTILIZATION OF CAPACITY; OTHER FACTORS AFFECTING DOMESTIC PRICES; THE MAGNITUDE OF DUMPING; ACTUAL AND POTENTIAL NEGATIVE EFFECTS ON CASH FLOW, INVENTORIES, EMPLOYMENT, WAGES, GROWTH, AND ABILITY TO RAISE CAPITAL OR INVESTMENTS.

I. VOLUNTARY PRICE UNDERTAKINGS. - ANTI-DUMPING INVESTIGATIONS MAY

BE SUSPENDED OR TERMINATED WITHOUT THE IMPOSITION OF PROVISIONAL MEASURES OR ANTI-DUMPING DUTIES UPON RECEIPT OF THE SECRETARY OF A SATISFACTORY VOLUNTARY PRICE UNDERTAKING EXECUTED BY THE EXPORTER UNDER OATH THAT IT HAS REVISED OR INCREASED ITS PRICES; OR HAS CEASED EXPORTS TO THE PHILIPPINES AT DUMPED PRICES, THEREBY ELIMINATING THE MATERIAL INJURY TO THE DOMESTIC INDUSTRY PRODUCING LIKE PRODUCTS. PRICE INCREASES UNDER SUCH UNDERTAKINGS SHALL NOT BE HIGHER THAN NECESSARY TO ELIMINATE THE MARGIN OF DUMPING.

PRICE UNDERTAKINGS FROM EXPORTERS SHALL BE ACCEPTED BY THE SECRETARY ONLY AFTER HIS DETERMINATION OF THE EXISTENCE OF A *PRIMA FACIE* CASE OF DUMPING.

J. CUMULATION OF IMPORTS. - WHEN IMPORTS OF PRODUCTS, COMMODITIES OR ARTICLES FROM MORE THAN ONE COUNTRY ARE SIMULTANEOUSLY THE SUBJECT OF AN ANTI-DUMPING INVESTIGATION, THE COMMISSION MAY CUMULATIVELY ASSESS THE EFFECTS OF SUCH IMPORTS ONLY IF THE COMMISSION IS CONVINCED THAT (1) THE MARGIN OF DUMPING 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 LIKE DOMESTIC PRODUCTS, COMMODITIES AND ARTICLES.

K. IMPOSITION OF THE ANTI-DUMPING DUTY. - THE SECRETARY SHALL,

WITHIN TEN (10) DAYS FROM RECEIPT OF THE FAVORABLE REPORT OF THE COMMISSION, ISSUE A DEPARTMENT ORDER IMPOSING AN ANTI-DUMPING DUTY ON THE IMPORTED PRODUCT, COMMODITY, OR ARTICLE, UNLESS HE HAS EARLIER ACCEPTED A PRICE UNDERTAKING FROM THE EXPORTER. IN CASE OF A FAVORABLE REPORT OF THE COMMISSION, THE CASH BOND IMPOSED AT THE INITIATION OF THE INVESTIGATION SHALL BE APPLIED. IF THE CASH BOND IS GREATER THAN THE IMPOSED ANTI-DUMPING DUTY, AFTER THE FORMAL INVESTIGATION, THE REMAINDER SHALL BE RETURNED TO THE IMPORTER IMMEDIATELY. IF THE CASH BOND IS NOT ENOUGH TO COVER THE ANTI-DUMPING DUTY, THE RESPONDENT IMPORTER SHALL BE IMMEDIATELY ASSESSED FOR THE DEFICIENCY AND SHALL PAY THE SAME WITHIN FIFTEEN (15) DAYS FROM THE RECEIPT OF THE DEFICIENCY ASSESSMENT.

L. COMPUTATION OF ANTI-DUMPING DUTY. - THE AMOUNT OF ANTI-DUMPING DUTY SHALL BE EQUAL TO THE DIFFERENCE BETWEEN THE NORMAL VALUE AND THE ACTUAL EXPORT PRICE OF THE IMPORTED PRODUCT, COMMODITY OR ARTICLE ON THE BASIS OF THE APPLICABLE PROVISION OF THIS CODE ON ASSESSMENT OF DUTY. THE COMMISSIONER OF CUSTOMS SHALL SUBMIT TO THE SECRETARY, THROUGH THE SECRETARY OF FINANCE, HIS ORDER ON THE IMPOSITION OF CASH BONDS AND A CERTIFIED COMPUTATION OF EACH CASE OF ANTI-DUMPING DUTY.

M. DURATION AND REVIEW OF THE ANTI-DUMPING DUTY. - AS A GENERAL RULE, THE IMPOSITION OF AN ANTI-DUMPING DUTY SHALL REMAIN IN FORCE ONLY AS LONG AND TO THE EXTENT NECESSARY TO COUNTERACT DUMPING WHICH IS CAUSING OR THREATENING TO CAUSE MATERIAL INJURY TO DOMESTIC INDUSTRY, OR MATERIAL RETARDATION OF THE ESTABLISHMENT OF SUCH INDUSTRY.

HOWEVER, THE NEED FOR THE

CONTINUED IMPOSITION OF THE ANTI-DUMPING DUTY MAY BE REVIEWED BY THE COMMISSION UPON THE DIRECTION OF THE SECRETARY, TAKING INTO CONSIDERATION THE NEED TO PROTECT EXISTING OR SOON TO BE ESTABLISHED DOMESTIC INDUSTRY.

ANY INTERESTED PARTY MAY ALSO PETITION THE SECRETARY FOR A REVIEW OF THE CONTINUED IMPOSITION OF THE ANTI-DUMPING DUTY: *PROVIDED*, THAT A REASONABLE PERIOD OF TIME HAS ELAPSED SINCE THE IMPOSITION OF THE ANTI-DUMPING DUTY, AND UPON THE NEED FOR A REVIEW. INTERESTED PARTIES SHALL HAVE THE RIGHT TO REQUEST THE SECRETARY TO EXAMINE (1) WHETHER THE CONTINUED IMPOSITION OF THE ANTI-DUMPING DUTY IS NECESSARY TO OFFSET THE MATERIAL INJURY OR THREAT THEREOF TO DOMESTIC INDUSTRY OR SOON TO BE ESTABLISHED INDUSTRY; AND (2) WHETHER THE INJURY WOULD LIKELY CONTINUE OR RECUR IF THE ANTI-DUMPING DUTY WERE REMOVED OR MODIFIED, OR BOTH.

IF AS A RESULT OF THE REVIEW BY THE COMMISSION, THE SECRETARY DETERMINES THAT THE ANTI-DUMPING DUTY IS NO LONGER NECESSARY OR WARRANTED, THE IMPOSITION OF THE ANTI-DUMPING 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.

THE DURATION OF THE ANTI-DUMPING DUTY INCLUDING ITS PROVISIONAL MEASURES AND THE TIME EXTENSIONS SHALL NOT EXCEED FIVE (5) YEARS.

THE PROCEDURE AND EVIDENCE GOVERNING THE DISPOSITION OF THE PETITION FOR THE IMPOSITION OF THE ANTI-DUMPING DUTY SHALL APPLY WITH 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 REVIEW.

N. JUDICIAL REVIEW. - ANY INTERESTED PARTY WHO IS ADVERSELY AFFECTED BY A FINAL RULING OF THE SECRETARY IN CONNECTION WITH THE IMPOSITION OF A DUMPING 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 THIRTY (30) 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 OR COLLECTION, AS THE CASE MAY BE, OF THE SAFEGUARD MEASURE 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 IN APPEALS IN CONNECTION WITH ADVERSE RULINGS ON TAX MATTERS TO THE COURT OF APPEALS.

SEC. 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.

SEC. 3. *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.

SEC. 4. *Separability Clause.* - If any of the provisions

of this Act is declared invalid by a competent court, the remainder of this Act or any provisions not affected by such declaration of invalidity shall remain in full force and effect.

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

Approved,

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, may we ask the Chair to recognize Sen. Juan Ponce Enrile for the sponsorship speech.

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

SPONSORSHIP SPEECH OF SENATOR ENRILE

Senator Enrile. Thank you, Mr. President. I will be very brief. I will not take more than what is necessary of the time of the Senate.

Mr. President, with the accession of the Republic of the Philippines to the GATT-WTO Agreement (Uruguay Round), we have become a member of the international economic order, most especially in the area of international trade, to the extent that we are now going to be governed by the regime of the treaty to which we adhered to. As a consequence of this, there are certain provisions that impel us to open up our markets to foreign-made goods both industrial and agricultural.

And in our time, Mr. President, given the very sensitive and difficult condition of the economy of the world where countries compete for ascendancy in different markets even to the point of losing money in the process but with the hope that in penetrating a market eventually they would get a substantial share of the profits to be made in those markets, this situation will surely pose a clear and present danger to the domestic industries of the Republic most especially our agricultural sector.

Having this in mind and conscious of the deleterious effect of the inordinate inflow of foreign-made, or grown, or produced goods and commodities, the leaders of this Chamber and the Congress, right after the ratification of the GATT-Uruguay Round WTO Agreement, hurriedly enacted what is now known as Republic Act No. 7843 which sought to amend, as it amended, the provisions of the then current anti-dumping law as embodied in the Tariff and Customs Code, to be precise, Section 301 of that Code.

Unfortunately, Mr. President, the statute embodied in Republic Act No. 7843 has been somewhat made complex and difficult to implement possibly because the drafting was not done in a clear and disciplined manner, and also because of the fact that it was hurriedly done. As a consequence of this, to date, in spite of what were perceived to be dumping incidents in our country, there has been no occasion or there was no occasion for our businessmen, let alone our government, to make use of Republic Act No. 7843 in order to protect our domestic industries.

I do not have to emphasize to this Chamber the deleterious effect of dumping of foreign-made goods into our economy. I think all the members of this Chamber would be aware of the impact and difficulties that would ensue to our people should that happen. It would mean unemployment to many if the dumping is not controlled or not arrested, although admittedly there is a downside benefit in the sense that our consuming public will get perhaps cheaper goods and hopefully, of better quality. But nonetheless, we will be depriving many of our countrymen of their sources of livelihood, both the capitalists, whose business will be placed out of business or threatened with insolvency, but most especially our laboring class who depends on the product of the sweat in the factories to earn money to support their families.

Because of this, Mr. President, this representation has seen fit to revisit the issue and thereby introduce into this Chamber Senate Bill No. 763 which is now the subject matter of Senate Committee Report No. 1 which is under discussion.

What we have done is to amend actually Section 301 of the Tariff and Customs Code, as amended by Republic Act No. 7843, by recasting the entire provisions of Section 301, as amended, to make the text clearer, logical, and simpler to implement, adhering closely to the mandates provided in the GATT-Uruguay Round WTO Agreement that we ratified.

I need not repeat here the text of the proposed measure before us. I think everyone was provided with a copy. All I can say is that I believe, humbly and sincerely, that this will serve the best interest of our Republic and our people if we adopt it.

With that, Mr. President, I would like to recommend the approval of Senate Bill No. 763 by the Chamber.

Thank you.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, for the interpellations, may I ask the Chair to recognize Sen. Juan M. Flavio; and

thereafter the Minority Leader, Sen. Teofisto T. Guingona, Jr.

The President. Senator Flavier is recognized first; and thereafter, Senator Guingona.

Senator Flavier. Mr. President, will my *guru* and professor in Taxation 103, the great senator from Cagayan, allow me to ask a few clarificatory questions for my continuing education?

Senator Enrile. How can I possibly refuse or ignore the distinguished gentleman from the Cordilleras with that introduction, and most especially being the tallest member of the Senate? I yield to his questions, Mr. President.

Senator Flavier. Thank you, Mr. President. I feel like 6'2" tall for a change.

My first question relates to the fact that everytime anti-dumping is mentioned, this is generally done in the context of another concept, which is the countervailing duties.

May the good senator explain to this representation the difference between these two concepts and why are they generally discussed in somewhat the same vein, Mr. President?

Senator Enrile. Mr. President, before I answer the essential point raised by the distinguished gentleman, I would like to start by saying that the word "dumping," loosely used, covers a lot of things. For instance, the inflow of tremendous quantity of sugar into the country would be considered dumping of goods here. But that is not the kind of dumping contemplated by this measure.

What is contemplated by this measure, Mr. President, is the importation into this country of goods at an export price less than the home consumption price or normal value of that like goods in the market of the country of production or the country of exportation regardless of the quantity of that importation, unless the quantity comes under the level of what we call *de minimis*. Meaning, if it is less than 3 percent of the total volume of imports of similar goods, then that particular importation will be meaningless as far as dumping, technically speaking, is concerned.

Coming now to the essential issue or point raised by the distinguished gentleman from the Cordilleras. The difference between dumping duty or the imposition of dumping duty and countervailing duty lies on the fact, Mr. President, that in the case of dumping, we are dealing with the issue of price differential between the normal price at which that product imported is emitted or destined for consumption in the ordinary course of business in wholesale quantity in the country of

production or in the country of export without any government intervention.

On the other hand, in the case of goods subject to countervailing duty, government intervenes in the form of subsidies. These goods are subsidized. And that is why we use what we call a duty that countervails the act of the government of the producing country or the country of export in order to level the playing field between these goods and the goods produced or like goods produced in our domestic economy.

Senator Flavier. I would like to thank the distinguished senator for that very clear differentiation, Mr. President.

Senator Enrile. I hope so, Mr. President.

Senator Flavier. It is very clear because I understood it, Mr. President. *[Laughter]*

My second question is, it is my impression that under the GATT-Uruguay Round, Mr. President, the attempt is to lower the tariffs. But it is also my impression that in this particular Senate Bill No. 763, the effort will be to increase the duties.

Senator Enrile. That is correct, Mr. President. But while under the GATT-Uruguay Round WTO Treaty we have bound or committed ourselves to lower tariff duties on certain types of goods up to a certain level. Nonetheless it is recognized by all the member-countries to the treaty that should there be a case of dumping by other countries, while we impose the reduced duty, we are allowed to protect ourselves by putting a surtax in effect, an additional duty on top of the normal duty.

In other words, when this particular book, for instance, assuming that this is the product being dumped, enters the country, we impose a normal duty on it. But if this particular article is imported into the country at an export price lower than the normal price at which that same article is destined for sale and consumption in the home market or the country of origin, production or export, then this very treaty that we ratified authorizes us to impose an additional duty on top of the ordinary duty.

Senator Flavier. What I am hearing, Mr. President, is that, the importation duty we are talking about is not in violation of any provisions of the GATT-Uruguay Round.

Senator Enrile. No, it is not, Mr. President. That is also the rationale of the countervailing duty, because the additional duty will equal what we call the margin of dumping, in the case of dumping. And the countervailing duty cannot exceed or go beyond the amount of subsidy that is included in the price of the goods exported to us.

Senator Flavier. Mr. President, it is also my impression that Republic Act No. 7843 was, in fact, an attempt to enact the procedure for anti-dumping which already amended Section 301. Therefore, my question is: Why is there a need to enact a new law to supersede what Republic Act No. 7843 did? Can the gentleman explain a little bit the difference between the enactment now and Republic Act No. 7843?

Senator Enrile. I do not want to criticize those who formulated and crafted Republic Act No. 7843, but I would like to state here that Republic Act No. 7843 is rather restrictive, complicated and impractical, if not impossible, to apply. Rather than protecting domestic industries, that purpose is defeated.

For instance, in terms of venue for the filing of a petition for anti-dumping, the anti-dumping petition may be filed either with the Secretary of Finance or with the Secretary of Trade and Industry. This is in itself a very cumbersome problem. Why should the Secretary of Finance come into the picture when he has no technical capability to determine the levers of production, pricing, markets, and the volume of supply and demand?

In the economy of the goods involved, that should be a function of the DTI. When it comes to agricultural products, even the Secretary of Trade and Industry would not have the intellectual skills and experiences that would enable him to handle this area. The Secretary of Agriculture ought to come into the picture.

So, we have to recast this and state in this proposed measure that should the commodity, article of commerce or produce involved is an agricultural product or commodity rather than an industrial commodity, then the one that should handle it is the Secretary of Agriculture—the Secretary of Trade and Industry has nothing to do with it—and vice versa. If it is an industrial commodity, it will be the Secretary of Trade and Industry, and the Secretary of Finance is merely a conduit or a channel through which the process will be used in order for either secretaries to instruct the Bureau of Customs to perform certainties in order to arrest the inflow of these commodities. Because all of these goods will have to pass through our border which is the Customs house. That is one.

Apart from what I have stated, with the present provision where the petitioner may either file the petition with the Secretary of Finance or the Secretary of Trade and Industry, the applicant will now be given the privilege of shopping for the favorable forum, which is also unfair to the importer. To some extent, it will be unfair to our consumers because these anti-dumping statutes would arrest, would affect the degree of supply of a commodity in the domestic economy, and thereby affect the pricing mechanism. The one that will suffer the injury will not only be domestic

industries but equally our consumers. So we want to level the playing field.

Second, Mr. President, Republic Act No. 7843 did not follow closely the technical terms used in the Agreement in defining the kind of injury that should be suffered by local industries in order that the applicant could invoke the anti-dumping provisions that we are proposing. RA No. 7843, instead of using "threat of material injury," uses the phrase "injury that might injure or retard the establishment of or is likely to injure an industry producing like articles." This is a very vague untested phraseology which will require a lot of definition and a lot of misinterpretation.

Then, again, there are certain requirements to qualify a petitioner under the treaty that we have adhered to, and this was ignored by RA No. 7843. It is required that at least 25 percent of the industry must be represented in the petition. If one is filing a petition for and in behalf of an industry, he must get the support of at least 50 percent of the entire industry to be considered as a petition filed for, by and in behalf of an industry.

There are other considerations embodied in RA No. 7843 that violate the Agreement that we have ratified. For instance, the question of the cash bond. Under RA No. 7843, the cash bond may be paid any time after the filing of the application. There are time constraints provided in the treaty on this, and we might be called upon by the WTO to explain if we do not correct this.

In the case of release of imports, RA No. 7843 provides that the Secretary, either the Secretary of Finance, maybe the Secretary of Finance—it does not say—or the Secretary of Trade and Industry—which I doubt—may *motu proprio* hold the release of the imports when he has information that an imminent danger of injury exists. There is no such terminology as "imminent danger" in the GATT, Mr. President.

There are others like price undertaking, likely to be sold, and there are many vague provisions that were stated here in this Republic Act. The final problem that I encountered is that there was a confusion in the mind of the person who drafted Republic Act No. 7843 in that he mixed in his mind the requirements for countervailing duty and the requirements for dumping.

If we are importing subsidized goods, it does not necessarily mean that there is dumping because the importation may be in accordance with the current pricing in the country of production or export and, therefore, we cannot use dumping. And yet, we can stop the importation of those goods if our country can prove that there is subsidy included in the export price of these goods such that they could export them to us at a cheaper price.

Senator Flavier. I would like to thank the distinguished gentleman for that comprehensive reply, Mr. President.

If I may be allowed to be a little bit more specific. Can the distinguished gentleman educate me on how do we determine when dumping actually occurs and what guidelines can we follow to enable us to establish that dumping has been practiced by a certain country or exporter?

Senator Enrile. We will have to deal with both volume and price, Mr. President. If the importation of the commodity in question comes from different countries, then each country's export to us must not be less than 3 percent of the total cumulative aggregate of that commodity.

But even if we have that volume, we still have to deal with the question of price and that is, that the export price at which these goods are exported to us would be less than the normal price at which the same goods are destined for consumption in the country of production or export.

In other words, the equation is very simple, Mr. President. Home consumption value less export sales price is equal to margin of dumping.

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. With the permission of our colleagues on the floor, just a small point of clarification because I heard the sponsor say, "3 percent for each exporting country."

My understanding is that if we are dealing with only one supplier, in excess of 3 percent, we already have dumping. But if we have more than one, I think the percentage is 7 percent of the total and we need not breakdown the quantity per exporting country.

SUSPENSION OF SESSION

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

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

It was 4:14 p.m.

RESUMPTION OF SESSION

At 4:17 p.m., the session was resumed.

The President. The session is resumed. Senator Enrile is recognized.

Senator Enrile. Mr. President, I would like to read into the *Record* the pertinent provision of the Uruguay Round Final Act, Marrakesh, 15 April 1994. This is paragraph 5.8 of Article V of Part I of the Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade of 1994 which deals with dumping.

The provision of paragraph 5.8 reads as follows:

An application for dumping shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not such sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or injury, is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 percent, expressed as a percentage of the export price.

The equation is normal value minus export sales price equal to margin of dumping over export sales price. If it reaches 2 percent of that ratio, then there is dumping as price is concerned, Mr. President.

To continue:

The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 percent of imports of like products in the importing country; unless countries which individually account for less than 3 percent of the imports of like products in the importing member collectively account for more than 7 percent of imports of like product in the importing member.

In which case, even if all the imports of the various supplying countries would be less than 3 percent, if their collective share of the totality of imports of like product in our economy is 7 percent, their imports would not be considered *de minimis*.

Senator Flavier. Mr. President, I think Senator Tatad is satisfied with the reply.

Information for volume and price was mentioned by the good senator. I would assume that these data will be supplied or gathered by our embassies.

My question is: Is the gentleman confident that our embassies have the capability to render that service in terms of the dumping issue?

Senator Enrile. Mr. President, normally, the embassies of our Republic would be helping us in gathering this information. But essentially—the gentleman was present when this matter was raised with the industries concerned during the hearing of this measure—the responsibility for gathering price information belongs to the the local industries concerned. I think they could help themselves if they would gather information regarding their own products where like products are manufactured in other countries. They should be because they are the ones most affected, although the government will have to assist them.

Senator Flavier. I thank the gentleman for that answer, Mr. President.

Senator Enrile. At the same time, since we are institutionalizing in this measure the Tariff Commission as the technical agency to conduct the actual investigation, that Commission will become the repository of information of various prices on various commodities that we produce in the country and also produced in other countries.

Senator Flavier. Thank you. I have two more small questions of definition and I will be finished, Mr. President.

Senator Enrile. Never mind about the size, Mr. President. Big or small, we will be glad to reply.

Senator Flavier. Big or small provided not short, Mr. President. *[Laughter]*

Senator Enrile. I do not know about that, Mr. President, but some people are probably boasting. *[Laughter]*

Senator Flavier. Mr. President, the first definition I would like to clarify, Mr. President, is the rather frequent referral to a “material injury.” Can the gentleman describe or explain a little bit to this representation the meaning of this “in the light of dumping duties”?

Senator Enrile. Mr. President, the term “material injury” could not be defined with any degree of specificity, because there are so many factors to consider in this. I would like to rather read into the *Record* Article III of Part I of the Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994, if I would be permitted by the Chamber.

The President. Please, by all means.

Senator Enrile.

Article 3
Determination of Injury

“3.1 A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

3.2 With regard to the volume of dumped imports, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member. With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

3.3. Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports of each country is more than *de minimis* as defined in paragraph 8 of Article 5 and the volume of imports from each country is not negligible and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.

Paragraph 3.4, I think I better read this *in toto* so that future interpreters of this law will understand what we are discussing here, because these are a little technical.

3.4. The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output,

market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

3.5. It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

3.6. The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary formation can be provided.

3.7. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the authorities should consider, *inter alia* such factors as:

- (i) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;

- (ii) sufficient freely disposable, or an imminent substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports;

- (iii) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

- (iv) inventories of the product being investigated.

No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur.

3.8. With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be considered and decided with special care.

In other words, Mr. President, the determination of material injury, threat of material injury, retardation of the local industry or the establishment of a local industry for the production of light products must be assessed and evaluated by a technical agency that we will identify which is, in our case, the Tariff Commission, and we will be guided by the findings of that technical agency.

Senator Flavio. Finally, Mr. President, in the latter part of the bill, I came across a phrase that I would like to request the good senator to annotate a little bit, and that is "voluntary remedy which leads to the automatic closure or cessation of the anti-dumping duties." May the gentleman just annotate a little bit?

Senator Enrile. Mr. President, that is actually lifted from a corresponding provision of the GATT-WTO Treaty.

SUSPENSION OF SESSION

May I request for a one-minute suspension of the session, Mr. President, to find the provision.

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

It was 4:38 p.m.

RESUMPTION OF SESSION

At 4:40 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. Mr. President, I am ready to answer the question of the distinguished gentleman from the Cordilleras. Would the gentleman kindly point out the page of that paragraph he was referring to?

That is paragraph (i) on page 23 of the text of the bill. That was patterned after Art. 8 of Part I of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994. I would like to read this Art. 8, with the permission of the Chair and the members of the Chamber.

Article 8
Price Undertakings

8.1 Proceedings may be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping. It is desirable that the price increases be less than the margin of dumping if such increases would be adequate to remove the injury to the domestic industry.

Mr. President, for purposes of expeditiousness and brevity, may I request that all the other paragraphs of Art. 8, meaning, paragraphs 8.2, 8.3, 8.4, 8.5 and finally, paragraph 8.6, be incorporated and recorded as part of my answer and our proceedings.

The President. It is so recorded.

The full text of each of the paragraphs abovementioned are the following:

8.2 Price undertakings shall not be sought or accepted from exporters unless the authorities of the importing Member have made a preliminary affirmative determination of dumping and injury caused by such dumping.

8.3 Undertakings offered need not be accepted if the authorities consider their acceptance impractical, for example, if the number of actual or potential exporters

is too great, or for other reasons, including reasons of general policy. Should the case arise and where practicable, the authorities shall provide to the exporter the reasons which have led them to consider acceptance of an undertaking as inappropriate, and shall, to the extent possible, give the exporter an opportunity to make comments thereon.

8.4 If an undertaking is accepted, the investigation of dumping and injury shall nevertheless be completed if the exporter so desires or the authorities so decide. In such a case, if a negative determination of dumping or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of a price undertaking. In such cases, the authorities may require that an undertaking be maintained for a reasonable period consistent with the provisions of this Agreement. In the event that an affirmative determination of dumping and injury is made, the undertaking shall continue consistent with its terms and the provisions of this Agreement.

8.5 Price undertakings may be suggested by the authorities of the importing Member, but no exporter shall be forced to enter into such undertakings. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the authorities are free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

8.6 Authorities of an importing Member may require any exporter from whom an undertaking has been accepted to provide periodically information relevant to the fulfillment of such an undertaking and to permit verification of pertinent data. In case of violation of an undertaking, the authorities of the importing Member may take, under this Agreement in conformity with its provisions, expeditious actions which may constitute immediate application of provisional measures using the best information available. In such cases, definitive duties may be levied in accordance with this Agreement on products entered for consumption not more than 90 days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

Senator Flavier. Thank you very much, Mr. President. I would like to thank the national treasure of Cagayan for his excellent replies.

Thank you, Mr. President.

The President. The Chair thanks Senator Flavier.

Senator Enrile. I thank the gentleman, Mr. President. I have become a national treasure of Cagayan. The Cagayan is not yet converted into a republic.

The President. Next to be recognized is Sen. Teofisto Guingona.

Senator Guingona. Thank you, Mr. President. Will the distinguished gentleman from Cagayan yield?

Senator Enrile. Gladly, Mr. President, to the distinguished other Minority Leader. They are equal Minority Leaders—recognized.

Senator Guingona. Mr. President, the intended law is in the national interest, is it not?

Senator Enrile. I think so, Mr. President. We would not be presenting this if we do not believe that there is a national interest to be subserved.

Senator Guingona. And because it is to the national interest, then anything that would facilitate the complaint for anti-dumping should be inserted into the intended law?

Senator Enrile. Yes, Mr. President, to the extent that such an insertion will be in harmony and attuned to the commitments we have made under the GATT (Uruguay Round)-WTO Agreement.

Senator Guingona. Yes, and the distinguished gentleman has already made reference to the previous law which was confusing, excessive and not really to the interest of the complainant, and we are grateful for the corrective measures.

Senator Enrile. May I just make an aside, Mr. President, with respect to the statement of the distinguished gentleman.

I would like to erase the implication that the authors of Republic Act No. 7843 were not conscious of our national interest. It was simply that, perhaps, while they were faithfully implementing the national interest, the verbalism of their faith and their intent did not match the noble intention.

Senator Guingona. Does the intended bill apply both to finished products and raw materials entering the country?

Senator Enrile. All kinds of products, Mr. President, whether finished or raw.

Senator Guingona. Does it also apply to agricultural as well as commercial products?

Senator Enrile. Yes, Mr. President, as long as we produce those products.

Senator Guingona. But, of course, as far as the agricultural products are concerned, because of the nation's high cost of production, many countries who have lesser costs of production would import into our shores similar or the same kind of products and they would not merit anti-dumping but anti-countervailing duties.

Senator Enrile. Mr. President, for all I know, the cost of production of those products would be higher than ours. But because of domestic government policy to subsidize, they recover a portion of their cost from their own government, and therefore, they could afford to sell those products to us at less than cost. And because of that, we are not using the anti-dumping duty to arrest that problem, but a countervailing duty.

Senator Guingona. Let us take the example of rice. Of course, rice importation is banned except under certain circumstances. But just as an example.

If the cost of production here is such that the selling price or the normal price is P10 per kilo and Thailand, because of technology and more efficient production, sells it at P5 a kilo, the corrective measure would be to determine whether their product—rice—is being sold at that low price because of government aid or subsidy.

Senator Enrile. Mr. President, in that example, if I were the lawyer of the domestic industry concerned, I will either use countervailing duty or dumping duty, whichever is easier for me to use to protect our local rice industry. Because if they sell for less than cost, I will ignore the subsidy of the foreign government and apply the fact that they are selling this commodity in our domestic economy for less than the home consumption price which would indicate to me which would be at least over cost.

Senator Guingona. If we reverse that process and we export rice at a price and volume in accordance with the standards which the importing country would consider below the normal price—because our President has said that irrigation would be free—would that be a subsidy on the part of the government?

Senator Enrile. I do not think that is the kind of subsidy that is actionable under the treaty, Mr. President. The subsidy must be something that is peculiar to a particular industry and not a generalized policy of the government.

It is just like putting up a road being used by people who will transport their goods. That is not subsidy in the sense of the treaty. But if we grant loans at less than open market or we buy a portion of the produce in order that they will recover their cost at a higher price or some similar arrangement or direct subsidy—grant of free fertilizers, free pesticides, and so on and so forth—maybe they can complain. But I doubt whether to irrigate the entire country as a domestic policy would be considered as an actionable subsidy under the GATT-Uruguay Round WTO Agreement.

Senator Guingona. The distinguished gentleman also said that the law applies to raw materials. For example, rattan. If rattan is brought into the country from, let us say, Indonesia under the standards set here in this bill, would that apply?

Senator Enrile. If they are sold here at less than cost, compared to the price at which they are sold in their home market, I suppose we can impose anti-dumping duty to protect the people who are engaged in rattan gathering in the country.

Senator Guingona. The intended law on page 12, says: "To cause material injury to a domestic industry or materially retarding the establishment of such an industry producing like products as determined by the Secretary."

Senator Enrile. What page is that, Mr. President?

Senator Guingona. Page 12, Mr. President.

Senator Enrile. Page 12 is the text of the old law that we are eliminating. Material injury here is found on page 22, paragraph 8, which are all capitalized, Mr. President.

Senator Guingona. Yes, Mr. President. But in other portions of the bill, it talks of the threat or potential damage.

Senator Enrile. I did not use the words "potential damage," Mr. President. What line is that?

Senator Guingona. I have the old law.

Senator Enrile. We are removing that old law precisely, Mr. President. We bracketed it.

SUSPENSION OF SESSION

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

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

It was 4:55 p.m.

RESUMPTION OF SESSION

At 4:56 p.m., the session was resumed.

The President. The session is resumed. Senator Guingona is recognized.

Senator Guingona. Mr. President, I cannot find the potential aspect here in the new printed bill. But is it essential that the importation actually be made before a case can be filed?

Senator Enrile. Yes, Mr. President, it must be within the borders.

Senator Guingona. If there is a threat or imminent injury in the eyes and contemplation of the manufacturer, can he not file a case because it speaks of threatening to cause material injury, just as in the courts when they issue restraining orders to prevent a threat?

Senator Enrile. The importation must threaten the industry, Mr. President.

Senator Guingona. Yes, it threatens in the eyes of the manufacturer. But must he wait for the actual importation before he can file a case? Or can he file a case of prevention?

Senator Enrile. I am not in a position to give a very definite answer to the question of the gentleman whether an industry here can file an anti-dumping application with the Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be, for the potential importation of one shipload of potato or one shipload of textile because the action will be premature.

But I suppose this will raise the question: When shall importation be considered to have started? Is it at the time when the goods enter the jurisdiction of the Philippines? Or would importation be deemed to have started at the time when the goods were loaded on board ship bound for the Philippines as a point of destination?

I think I will not venture to give a legal provision on this. I will leave that to the assessment of the Tariff Commission, Mr. President.

Senator Guingona. Yes, Mr. President. Because in the cited GATT articles, I think paragraph 8, that was read into the *Record* by the distinguished senator, he mentioned threats of material injury. So I was thinking, in order to protect the manufacturer here, that he can be allowed to file a preventive importation of anti-dumping.

At any rate, would the distinguished gentleman agree to an amendment at the proper time?

Senator Enrile. I would, Mr. President.

Senator Guingona. I would like to thank the distinguished gentleman. In the bill, the standard is that it must do injury to 50 percent of the industry?

Senator Enrile. No, Mr. President. First of all, the standard is not just injury. It must be a material injury or threat of a material injury, or retardation of existing industries, or the establishment of new industries producing like products.

The 50 percent goes to the qualification of the petitioner or the applicant. If the petition is intended as a petition by and on behalf of the domestic industry, then there must be a showing that at least...

The provision is in Article 5, part 1 of the Agreement to Implement Article VI of the GATT Agreement of 1994. I would like to read the pertinent provision of Article 5, paragraph 5.4. It says:

An investigation shall not be initiated pursuant to paragraph 1 unless the authorities have determined, on the basis of an examination of the degree of support for, or opposition to, the application expressed by the domestic producers of the like product, that the application has been made by or on behalf of the domestic industry. The application shall be considered to have been made "by and in behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 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 25 percent of total production of like product produced by the domestic industry.

To tell the gentleman frankly, Mr. President, until now I have a very difficult time understanding the real meaning of this paragraph. That is why when I crafted this proposal, I provided here a shortcut. I must admit that this is somewhat of a shortcut in order to make it easier for us to implement this.

Let me just look at the correct paragraph, Mr. President. That is on page 20:

UPON DETERMINATION BY THE SECRETARY OF THE EXISTENCE OF A *PRIMA FACIE* CASE, HE SHALL, WITHOUT DELAY, SECURE A WRITTEN SUPPORT FOR THE

INITIATION OF THE FORMAL ANTI-DUMPING INVESTIGATION FROM THE AFFECTED DOMESTIC INDUSTRY PRODUCING TWENTY-FIVE PERCENT (25%) OR MORE OF LIKE PRODUCTS.

Senator Guingona. Yes, Mr. President. Does this mean that he would have to get written signatures?

Senator Enrile. We will propose, through some members of the Chamber, a modification of the wording of this sentence in the sense that "he will, without delay, require the applicant to secure...."

Senator Guingona. Since it is to the national interest, and since the Secretary will undertake an investigation anyway, could we not consider this some sort of a class suit filed by an individual who feels material damage in behalf of the 25 percent and in behalf of the 50 percent of the industry, so that the determination can be made by the Secretary, instead of requiring him to go to 25 percent and secure written signatures significant of support?

Senator Enrile. I think the producers of certain commodities in this country, Mr. President, have their own chambers. They have their own organizations and it is easy for them to pass a resolution supporting any action to protect themselves. This is a very important requirement of the treaty, and we could not skirt this.

Senator Guingona. I agree that this is an important ingredient. But the Secretary anyway will conduct a preliminary investigation to determine whether there is a *prima facie* case to support the sworn allegations of the complaint.

To make things easier for the complainant in the national interest, would the distinguished senator accept an amendment at the proper time that the complainant be allowed to file without this showing and it is up to the Secretary, who will investigate it anyway, to determine whether the 25 percent and 50 percent are not....

Senator Enrile. Mr. President, the scenario is simple. There is nothing that will prevent a member of a domestic industry, let us say, people who are in the manufacture of corrugated roofing, to file an application for anti-dumping if there is an importation of that kind of product for less than home consumption value. But for that application to proceed to be investigated by the Tariff Commission, the Secretary concerned—the Secretary of Trade and Industry in this case—would see to it that the representative quantum of the industry must be represented as petitioners. It is then and only then that he must forward the entire record to the Tariff Commission

for final definitive investigation so that the anti-dumping duty could be imposed on a permanent basis.

In the meantime, once the Secretary has found a *prima facie* case, he takes certain actions. He will not impede the entry of the goods, otherwise our Custom's house will be clogged. But we will require the importer to put up a cash bond to the extent that would cover the margin of dumping.

Senator Guingona. Because we feel that anything that would make it easier for the complainant should be resorted to for after all, it is the Secretary who will investigate with all of his resources at his command and determine whether the percentages required under the GATT are met or not.

Senator Enrile. Mr. President, in fact, this requirement of more than 25 percent is a material allegation of the application.

Senator Guingona. Yes. The complainant will materially allege that.

Senator Enrile. Yes.

Senator Guingona. So he need not get the written signatures, the records, the supporting documents. In other words, it will be easier for him to file the complaint.

Senator Enrile. Domestically, we can do that, Mr. President, but since we are signatories to the GATT Uruguay Round-WTO Agreement, as much as possible, we must conform to the requirements of that Agreement so that whatever actions our authorities here will do would not be challenged in the Dispute Settlement Board of the WTO.

Senator Guingona. That is why I was thinking of an amendment at the proper time that would obligate the Secretary to look into the merits of the case and to determine for himself the percentages imposed by the GATT.

If the gentleman will agree, we will propose that amendment at the right time.

Senator Enrile. That is a requirement, Mr. President, and I will not commit to accept or not accept a proposed amendment at this point. I will have to look at the wording of that amendment then because I do not want to craft a law that will be challenged by other countries and could be the basis for an action against us.

Senator Guingona. Under the bill and under the treaty, the government usually helps in gathering facts and data for the complainant so that he can be furnished the required data necessary in filing the complaint.

But I heard the distinguished gentleman say that it is the industry itself, the manufacturer and the farmer who must do the work. I think both can be combined and perhaps it would be good to mandate the government, through the financial and commercial attachés all over the globe, to help a legitimate Filipino entrepreneur or manufacturer or farmer to get the necessary data.

And since this is for the national interest, will the distinguished gentleman agree to an amendment imposing an obligation upon the pertinent government officials to help?

Senator Enrile. I will accept an amendment to require our ambassadors who busy themselves attending cocktails to gather the materials to support our local entrepreneurs and industries, Mr. President.

Senator Guingona. I would like to thank the distinguished gentleman for that.

I have one or two other questions but since the new printed copy is a little longer, I would need more time. I therefore would like to thank the distinguished gentleman from Cagayan for the interpellation.

The President. Thank you.

Senator Drilon. For the next interpellation, may we ask the Chair to recognize Sen. Aquilino Pimentel Jr.

The President. Senator Pimentel is recognized for the interpellation.

Senator Pimentel. Will the distinguished gentleman, Mr. President, respond to a few questions?

Senator Enrile. Gladly, Mr. President, to the distinguished son of Mindanao.

Senator Pimentel. Mr. President, when the distinguished gentleman's bill speaks of material injury, do we have any extrinsic measure to resort to, to determine whether or not indeed some material injuries are being caused to any like product, commodity or article being sold or consumed in the Philippines?

The reason I asked this question is that probably, there has to be a kind of a measure that is beyond, shall we say, the personal likes or dislikes of the authorities, in order to determine whether or not there is indeed a material injury to the products, commodity or article which we are trying to...

Senator Enrile. Frankly, Mr. President, I felt that we

should leave this to the expert judgment of the investigating agency to determine the level of imports more than *de minimis* that would injure any local industry, because there are peculiarities here.

In the case of the issue raised by the distinguished Minority Leader, if we take, for instance, the beer industry, there are only two companies involved. San Miguel has a market share of, I think, about almost 80 percent. So that if San Miguel files an anti-dumping case, there is no need for the Secretary to secure support or require the applicant to secure support of the minimum requirement of the treaty and this law to qualify the petitioner as a qualified petitioner.

On the other hand, in the case of the question of the distinguished senator, I have read the treaty several times and I do not find any absolute quantification of what would be considered as a level of imports that would automatically suggest to us that it inflicts material injury to the industry. I think the peculiarity of the entire international trade is that there are so many products involved and there are different factors that would affect these industries and their products to warrant a conclusion that this quantity would be injurious.

Senator Pimentel. Is my understanding correct therefore, Mr. President, that the distinguished senator would rather leave that determination of material injury to the Tariff Commission, which will have the duty to determine whether or not material injury will be caused to the product or industry or commodity by the product which is being dumped?

Senator Enrile. That is correct, Mr. President. Although we indicated in the law the essential factors that the commission must look into to assess the threat of material injury to our domestic industry.

Senator Pimentel. That is exactly, Mr. President, what I was trying to ask of the distinguished senator because, to my mind, it is always fraught with danger if we allow bureaucrats to do determination for, let us say, the Legislature. It would probably be tantamount to a blanket delegation of our power to legislation.

Senator Enrile. I agree with the distinguished senator, Mr. President. There is a risk involved here not only of a possible use of wide discretion, but a possible corruption in the application of this.

But on the other hand, I think that the delegation of the authority being required into this area is sufficiently guided by the provisions that we have crafted, especially paragraph (h) found on page 22.

Senator Pimentel. This particular paragraph speaks of the determination of material injury.

As the distinguished senator has indicated apparently, there are some general legislative guidelines which the Tariff Commission will have to consider if it is to determine that the importation is indeed intended for dumping and will cause some material injury to a local industry, product or commodity.

Senator Enrile. That is why I even read into the *Record* the provisions of the treaty so that these things could be looked into by the Tariff Commission when it applies the law that we are crafting. We cannot just restate the entire treaty here because it will be too cumbersome as a statute.

Senator Pimentel. Mr. President, the distinguished gentleman's bill speaks of the product, commodity or article of commerce which is being imported into the country. This is on lines 7 and 8 of page 16, and I quote, "... at less than its normal value."

This question now arises: Supposing the value is equal to—

Senator Enrile. Normal.

Senator Pimentel. —to the normal value of the goods being produced in this country?

Senator Enrile. By the way, Mr. President, there is a typographical error in the use of the word "Philippines" here. We will propose to some members of the Body to amend this at the proper time. The typist wrote "Philippines" instead of "the country of manufacture" or "export."

Senator Pimentel. Indeed, Mr. President, we were misled by that phrase.

Senator Enrile. It is the price where the goods are produced for consumption. That must be the price at which the export price to us must be compared to determine whether there is a difference and that difference is what we call "the margin of dumping."

The equation is, "Home sales price less export sales price equals margin of dumping," with certain adjustments like advertisement, packaging, taxes and so on.

Senator Pimentel. This formula which the distinguished gentleman has just explicated on does not take into account whether the goods that are being exported are of less quality or of better quality.

Senator Enrile. That will be taken into account, Mr. President.

Senator Pimentel. By the Tariff Commission?

Senator Enrile. By the Tariff Commission.

Senator Pimentel. Very good.

Senator Enrile. What is contemplated here, Mr. President, is articles of comparable durability and comparable quality.

Senator Pimentel. I see.

Senator Enrile. Let us say, a scissor compared to a scissor manufactured here of the same use and quality, the prices of these must be compared. The starting point of the comparison is the export price compared to the price at which that scissor exported to the Philippines would sell in the ordinary course of business, in wholesale quantities, meaning, ex-factory price in the home country of production, or in the home country of export if there is no sale in the home country of production. It is possible that a particular product could be manufactured in one country to be marketed in another country that needs it.

Senator Pimentel. Mr. President, would this proposed Anti-Dumping legislation cover the same and exact produce of any other country that is exporting to the Philippines or would it cover generics?

Senator Enrile. Similar products, Mr. President.

Senator Pimentel. For example, Mr. President, as of today, the price of apples in the Philippines are cheaper than the price of mangoes. Would anti-dumping apply in that particular instance? Because generically, they would come under the term "fruit."

Senator Enrile. I do not think it will apply, Mr. President. But if mangoes of India would be exported to the Philippines with prices less than they would sell those goods in India to recover their variable costs and dump them here to the detriment of our mango industry, then I think we can impose a dumping duty.

Senator Pimentel. Mr. President, the reason I ask that question is the fact that the threat to the mango industry in this country does not only come from importation of mangoes also from India or Pakistan, but in the importation of fruits that may substitute for mangoes.

Senator Enrile. That is true, Mr. President, but I do not think that was contemplated by the treaty that we are discussing

when they actually crafted that.

Senator Pimentel. If the gentleman is correct that it was not contemplated, may we not therefore supply or provide for the missing link? I am just asking.

Senator Enrile. I am not sure whether we can do it. Maybe. I could not answer the gentleman with definiteness. I would rather tread the safer road rather than risk that which we will be called to account in the international forum because of some provisions extraneous to what we have agreed upon.

Senator Pimentel. Just about two more points, Mr. President. This particular legislation would cover both raw materials as well as finished products?

Senator Enrile. That is correct, Mr. President.

Senator Pimentel. On page 18, lines 15 to 24, "the Secretary" being referred to here—I suppose this is the Finance Secretary, Mr. President—

Senator Enrile. Yes, Mr. President.

Senator Pimentel. —"is precluded from publicizing the application for the initiation of the investigation."

Senator Enrile. Until he makes a *prima facie* determination that there is a case.

Senator Pimentel. Mr. President, in the regime of free speech and press, how do we do this?

Senator Enrile. That is a requirement also of the treaty, Mr. President.

Senator Pimentel. But, Mr. President, I recall that in the law creating the Ombudsman, there is a prohibition against publicizing the names of the people being investigated there, but we always see their names in the newspapers.

Senator Enrile. Anyway, Mr. President, what it simply means is that the Secretary concerned must not assume the responsibility of disseminating the information. If an enterprising media man would get hold of a copy of the petition and it is disseminated, as long as it is not an official act of the government of the Philippines, I do not think we collide with the provision of the treaty.

Senator Pimentel. In any event, Mr. President, we are not imposing any sanction for, let us say, a violation of this act by the

Secretary, assuming that he is "ambushed" in an interview, and he says, "Yes, there is an initiation to withhold the importation of this and that product."

Senator Enrile. If I were the Secretary, Mr. President, I will probably say, "Yes, there is, but I cannot go beyond confirming that there is an application." Then I will just say, "I am going to assess it."

Senator Pimentel. So, just like the Americans, Mr. President, the gentleman would neither confirm nor deny the presence of...

Senator Enrile. That is true. I do not know why they require this. I cannot just pinpoint the exact provision. I read that somewhere here, Mr. President. But this is patterned after that provision of paragraph 6.5 of Article 6, it says: Any information which is by....

SUSPENSION OF SESSION

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

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:30 p.m.

RESUMPTION OF SESSION

At 5:31 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. This is actually found, Mr. President, in paragraph 5.5 of Article 5. I would like to read it into the *Record*.

The authorities shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the application for the initiation of an investigation. However, after receipt of a properly documented application and before proceeding to initiate an investigation, the authorities shall notify the government of the exporting Member concerned.

That is the provision of the treaty which we modified somewhat in order to conform with our domestic requirement.

Senator Pimentel. Yes, particularly on the freedom of speech and of the press. Unless there is a sanction to it and if we can remove it, we might as well strike it out.

Senator Enrile. I have no problem if we strike it out, Mr. President. After all, whether we put it here or not, we are bound by the mandate of the treaty that we signed.

Senator Pimentel. That is correct, Mr. President, but considering that this is our own act—I mean, if we pass the bill that the gentleman is sponsoring....

Senator Enrile. We will accept a proposed amendment at the proper time, Mr. President.

Senator Pimentel. Yes, in due time. Finally, Mr. President, on page 26, line 30. Just a clarification. Are we talking of "ONE HUNDRED FIFTY DAYS" or "(15) DAYS," Mr. President?

Senator Enrile. Before we go into that, Mr. President, may I just say here that we will recast this because there is a requirement that we will have to notify the exporting Member country under the treaty. Anyway, we will craft this.

What is the question of the distinguished gentleman, Mr. President?

Senator Pimentel. On page 26, line 30. I think there is a typographical error. The written words speak of "ONE HUNDRED FIFTY DAYS," but the numerical statement there is less, "(15)" not 150.

Senator Enrile. Yes, I saw it already. I will check the text of this.

SUSPENSION OF SESSION

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

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

It was 5:34 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. I understand that it is one hundred fifty (150) both in words and in figures, Mr. President.

Senator Pimentel. Thank you, Mr. President.

Senator Enrile. Thank you very much.

The President. Thank you, Senator Pimentel.

Senator Drilon. Mr. President, Sen. Loren Legarda-Leviste has also reserved the right to interpellate. If she is ready, she may proceed.

Senator Enrile. I am ready. We can continue tomorrow if that is the pleasure of the Chamber.

Senator Drilon. Just a few questions, Senator Enrile, if he will agree.

Senator Enrile. I have no problem about it. I would like to accommodate our distinguished lady senator of the Philippines.

The President. Sen. Loren Legarda-Leviste is recognized.

Senator Legarda-Leviste. Thank you, Mr. President. This humble representation would be privileged and honored if the honorable senator from Cagayan, whom I consider one of the most illustrious members of this august Body, would yield to just a few basic clarificatory questions for my education, as Senator Flavio puts it.

Senator Enrile. I could not possibly refuse to yield, Mr. President.

Senator Legarda-Leviste. As we know, Mr. President, the process of globalization is sweeping around the world, and ready or not, some countries will be losers and some countries will be winners.

The subject of today's deliberation reminds us that the era of free markets and free trade does not mean an end to unfair trade practices. It reminds us that even in the field of economics as much as in politics, eternal vigilance is still the price of freedom. As the volume of our trade with other countries grows, our exposure to all forms of unfair trade practices such as dumping, unfair state subsidies, grows proportionately.

Under this regime, Mr. President, can we afford to address the various threats on a piecemeal basis? Should we not develop a comprehensive plan to address all of the old and all of the new trade related situations being brought about by the liberalized broad trading regime?

For this purpose, may I ask, Mr. President, which of our government agencies has the principal responsibility for understanding the new agreements and developing a strategy

and tactic in this new international regime and whether or not they have the adequate legal mandate and resources to carry out such a crucial task?

Senator Enrile. For industrial and intellectual goods and services, Mr. President, these are addressed to the attention of the Secretary of Trade and Industry. But for agricultural products, this would be addressed to the Secretary of Agriculture.

Senator Legarda-Leviste. Mr. President, does the honorable senator believe that there is a need to have a more comprehensive and concerted effort to try to address these problems by mapping out a plan that would be more coordinated with each other?

Senator Enrile. That is what we have been doing all these years, Mr. President, and we will continue to do so. Actually, what we are doing now is just a part of the national effort to protect ourselves.

Recently in the last Congress, the distinguished gentleman from Bicol handled the intellectual property portion of this work. There are others that we have to do yet: the countervailing duty and the law on safeguards. But basically, these are actually guided by the provisions of the GATT-Uruguay Round-WTO Agreement that we have adopted and ratified in the Senate.

The lady senator is correct that we have to develop an overall plan. These are items that could not be placed in one single statute. They have to be adopted singly, but the totality of this safeguard measures hopefully would protect our local economy and local industries.

Senator Legarda-Leviste. Thank you, Mr. President. This humble representation thanks the honorable senator for shedding some light on this issue.

The President. Thank you, Sen. Loren Legarda-Leviste.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 763

Senator Drilon. Mr. President, I move to suspend consideration of Senate Bill No. 763.

The President. Is there any objection? *[Silence]* There being none, the consideration of Senate Bill No. 763 under Committee Report No. 1 is hereby suspended.

Senator Drilon. A few matters, Mr. President, before we adjourn.