

TUESDAY, MAY 16, 2000

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supporting/concurring to Resolution No. 2000-23 of the SP of Lagawe, Ifugao, petitioning Congress not to privatize the National Food Authority.

The President. Referred to the Committees on Government Corporation and Public Enterprises; and Agriculture and Food.

The Secretary. Letter from Secretary Aurora B. Caballes of the Sangguniang Panlungsod of Butuan furnishing the Senate, SP Resolution No. 224-2000 endorsing the immediate passage and approval of H. No. 3549 and S. No. 1759.

The President. Referred to the Committee on Labor, Employment and Human Resources Development.

The Secretary. Letter from Asst. Secretary Ernesto A. Gulbin of the Sangguniang Panlungsod of Island Garden City of Samal, Davao del Norte respectfully forwarding to the Senate Resolution No. 162, series of 2000, supporting the President's call for unity.

The President. Referred to the Committee on Peace, Unification and Reconciliation.

The Secretary. Resolution No. 2808-S-2000 of the City Council of Angeles, supporting S. No. 1962 and H. No. 9519, which extends the term of existence of the Mt. Pinatubo Assistance, Resettlement and Development Commission.

The President. Referred to the Committee on Social Justice, Welfare and Rural Development.

The Majority Leader is recognized.

SPECIAL ORDER

Senator Tatad. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 230 on Senate Bill No. 2033, entitled

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

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

APPROVAL OF S. NO. 1943 ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Senate Bill No. 1943, as amended, on Second Reading.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 1943, as amended.

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

Several Members: *Aye*

The President. As many as are against the bill, say *no*. *[Silence]*

The *ayes* have it; Senate Bill No. 1943, as amended, is approved on Second Reading.

Senator Osmena (J). Thank you very much, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1943

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 1943.

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

BILL ON SECOND READING

S. No. 2033 ■ Providing Safeguard Measures
To Local Industries

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Consideration of Senate Bill No. 2033 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. 2033, entitled

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

The following is the whole text of Senate Bill No.
2033:

(Insert)

Senator Tatad. Mr. President, to sponsor the measure, I ask that the Chairman of the Committee on Trade and Industry, Sen. Ramon B. Magsaysay Jr., be recognized.

The President. Sen. Ramon B. Magsaysay Jr. is recognized to sponsor the measure.

Senator Magsaysay. Thank you, Mr. President. Before I start my sponsorship speech, may I ask the Majority Leader if we could also simultaneously use the power point....

MOTION OF SENATOR TATAD
(To Allow Senator Magsaysay to Use
Audiovisual Support)

Senator Tatad. Mr. President, I move that we allow Senator Magsaysay to use all the audiovisual support that he needs.

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

Senator Magsaysay is recognized.

Senator Magsaysay. Thank you, Mr. President. I hope our colleagues here and the audience will not fall asleep

because we have just dimmed the lights. At any rate, this is a short sponsorship speech.

SPONSORSHIP SPEECH OF SENATOR MAGSAYSAY

Mr. President, as Chairman of the Senate Committee on Trade and Commerce, I have the honor of sponsoring the legislation on safeguard measures.

Committee Report No. 230 is a consolidation of five significant bills, namely: Senate Bill No. 88 by Sen. Juan F. Flavio; Senate Bill No. 692 by Sen. Miriam Defensor Santiago; Senate Bill Nos. 764 and 926, by Sen. Juan Ponce Enrile and Sen. Sergio R. Osmeña III; and the approved House Bill No. 7613, which was referred to the committee for consideration.

The Philippines in GATT

In December 1994, this august Chamber ratified the General Agreement on Trade and Tariffs, or simply called GATT. The trade pact mandates the cutting of tariffs on industrial goods by an average of more than one-third progressive liberalization of trade and agricultural products, and the creation of the World Trade Organization or WTO as a successor of GATT.

Among its principal thrusts, the Uruguay Round encourages stronger market orientation to agricultural trade by reducing export subsidies and converting all nontariff barriers to tariffs. The latter, known as "tariffication" makes more transparent the extent of support that the government extends to agricultural products.

These market-oriented rules governing international trade are expected to improve predictability and stability for both importing and exporting countries. Likewise, it means that countries can no longer arbitrarily impose restrictions on agricultural imports nor employ hidden subsidies or other forms of support to agricultural exports.

The accession of the Philippines in the WTO was never easy. In this very same Chamber, an important decision was made on whether we should join the League of Nations in free trade or not. And when a positive vote was taken, the government collectively vowed to modernize the countryside as analyses would show that the agricultural sector would be the "most at risk" with the liberalization process. Among the package of benefits included in the commitment are the

lowering of tariff on inputs, construction of more infrastructure in the rural areas, increasing expenditure in research and development, provision for market information, accessibility of credit at more favorable interest rates and the formulation of a less onerous tax system.

Agriculture and Industry: Scenario at Present

Almost six (6) years into the WTO, and already bearing the adverse impacts of the accelerated trade liberalization policy, the Congress has enacted various measures necessary to maximize our membership in the body. Among them: Republic Act Nos. 8751 and 8752 passed in August, 1999 and both authored by Sen. Juan Ponce Enrile on the rules for the imposition of a countervailing and anti-dumping duties.

Countervailing duties are imposed upon subsidized products, the importation of which has caused or threaten to cause material injury to the domestic market and are applied against the subsidizing country, while an anti-dumping duty is one imposed arising from the difference between normal values and export prices is applied against the exporter.

But there remains legislative measures as safety nets that have yet been enacted. For example, domestic producers, small entrepreneurs and farmers have yet to see a safeguards law they can fall back on. Safeguards measures are emergency actions which the Philippines may take against any excessive, increase in the importation of a product that is causing or threatening to cause serious injury to the domestic industry.

With these as backdrop, the economic condition of the country continues to be bleak. The officials of the Department of Agriculture (DA) admitted that they are in the midst of several challenges in international trade, with agricultural trade proving to be the toughest nut to crack. Agricultural trade is faced with trade-distorting domestic support or subsidy estimated at US\$363 billion in 1998 from Organization for Economic Cooperation and Development (OECD) nations, export subsidies (around US\$11 billion in 1997) and market access barriers, resulting in an unlevel playing field between developed and developing countries.

In the domestic market alone, the Department of Agriculture has taken note of severe import surges of poultry parts, onions, garlic, and other agricultural products which threaten to seriously injure, if not kill, the country's local sector.

Consider the following information:

- a. Increase in imports of chicken parts:

In the years 1997 and 1998, the increase was 101%. But in the 1998 to 1999 years, it was 2021% or 20 times that of the previous year.

b. The import price of chicken parts from the United States of America per kilogram is PhP25.83, while the farmgate price of chicken per kilogram in the Philippines is PhP53.17. Note that the import price of chicken parts is so low because there is a very small market for red meat/chicken parts in the US and these are considered "by-products". The Americans prefer the white meat the breast.

Sugar is another agricultural product worsely hit as a result of GATT. Sugar prices have dropped from 14 cents a pound to 6 cents a pound, or only 43% of its price in 1995. This is the result of our commitment. The Philippines has committed not only the lowest outbound tariff among its percentage of reduction of the outquota tariff rate over time.

From an initial bound rate of 100%, the Philippines committed to a final bound rate of 50% or a 50% reduction in 2001. To compare our commitment with the rest of ASEAN, Thailand's tariff reduction is a mere 10% and that of Indonesia 15%, as against our 50%.

As a result, the Philippine sugar industry is vulnerable to the onslaught of imports from cheap world sugar market. If no adjustment measures are put in place, we are putting in peril an industry that contributes 3% to the agricultural gross value added (GVA) and providing jobs to half a million Filipino workers.

Let us go to a third commodity--coffee. World prices of coffee this year is only about 63% of its price in 1995. That time, the Philippine government committed tariffs to be 60% in 2000, or P0.98 based on a US\$1.63 per kilogram price in 1995. Instead, they are now at P0.66 per kilogram at prevailing prices of US\$1.02 per kilogram. The price with the tariff would now be US\$1.68 or P68.90 a kilo based on a conversion rate of P41.00 to a US\$1 compared to a P107.10 kilo that the government expected in 1994.

The import surge of chicken parts, sugar and coffee is just at the tip of agricultural problem vis-a-vis liberalization. Social scientist Dean Rene Ofreneo of the University of the Philippines and Raul Montemayor of the National Federation of Free Farmers share the observation that the local agriculture scene is in shambles. The Philippines is in the middle of a full-blown crisis as far as production, importation, and distribution of agricultural

products are concerned. Corn and sugar have been performing poorly. Tobacco and coconut are also on the decline. The theory that nontraditional export crops would fare well is turning out to be, well, mere theory. Philippine pineapple is losing out to Thailand and Indonesia due to cheaper labor in those countries, lower land rental and government subsidy. The Philippine banana is no match to the banana being dumped in the Japanese market by Central American producers.

In the industrial and manufacturing sectors, on the other hand, the statements made by its leaders in a report published by *Asiaweek* in November, 1999 would indicate the harsh effects of liberalization if not properly planned and prepared for. Mr. John Gokongwei of the JG Summit Group of Companies remarked, " ...Nearly all our industries will die. Our tire industry, shoe industry, steel, textile and paper industries are all dead." Raul Concepcion of the Federation of Philippine Industries, for his part, said that with the sudden advance in tariff cuts, manufacturing firms will have to rethink their respective plans to brace for the inflow of foreign competition.

The Committee Report on Safeguard Measures

Amidst these realities, the Committee Report on safeguard measures is submitted. The survival of the people in a free market environment can only be achieved if the necessary balance is considered. The legislation at hand is a balancing tool: protecting domestic industries, given the policy in place.

The Committee Report is highlighted by the following salient features:

1. It provides two forms of safeguards which may be resorted to in cases of import surges of a specific commodity. These are the General Safeguard Measures (GSG) and the Special Safeguard Measures (SSG).

The General Safeguard Measures are those used to protect agricultural and nonagricultural products, in cases where an import surge is causing or threatening to cause serious injury to domestic industry. A Special Safeguard Measure, on the other hand, are those applied for sensitive agricultural products which have been tariffied once a pre-specified trigger volume of imports or trigger price of imports is reached.

2. It provides that the Philippine government can adopt provisional measures in the form of tariff increases unless that would not be sufficient to redress or prevent injury to the domestic industry. This is patterned after this Australian provision on the similar measure.

The provision is significant as it signals the country's policy to push the limits of the WTO agreement to afford such protection as may be allowed and which may be beneficial to our industries. The Committee Report took notice of the present laws of the United States, the European Union countries and Australia on provisional measure and adopted the same in our jurisdiction.

3. as the bill provides the entire process detailing the application of safeguard measures, it likewise provides the necessary mechanism that may be adopted by interested parties through judicial review.

Mr. President, let me just stress that safeguards can either be immediate and trigger-based for agricultural products as in the Special Safeguards for tariffied products, those with MAVs or Minimum Access Volumes or they can be immediate but temporary, for both agricultural and industrial products, if the injury or threat thereon is imminent, through the provisional safeguards. Special safeguards are added safeguards for agricultural products. These measures can be invoked if:

- (a) the volume of imports of the product exceeds trigger level, or
- (b) the price at which imports of that product are at that level.

Special safeguards do not replace regular safeguards, but are meant to be supplementary. Failure to use these measures or to provide Philippine industry and government the option to use them can lead to the decimation of productive capacity, loss of equity and assets invested in the industry and loss of jobs for hundreds of thousands of Filipinos that can lead to social problem, particularly, massive unemployment.

The Committee Report was guided by the tenet that globalization is positive for everyone, including and especially the poor. Globalization affords us a world where we produce goods as cheaply as possible so that millions of

people can buy them at lowest prices. But the small farmers and those dependent on the small producers and entrepreneurs must have the adequate purchasing power to consider the good virtues of free trade. To achieve this, we must extend to them the necessary protection. Protection for them to keep their jobs and the assurance against displacement, protection for industries to be competitive and the assurance against unfair competition.

Finally, Mr. President, may I quote the late President John F. Kennedy of the United States, saying: "If a free society cannot help the many who are poor, it cannot save the few who are rich."

Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, we would like to thank Senator Magsaysay and President Kennedy, for the sponsorship speech. *[Laughter]*

SUSPENSION OF CONSIDERATION OF S. NO. 2033

To allow the sponsor and our colleagues to prepare for the interpellations, I move that we suspend consideration of Senate Bill No. 2033.

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

Senator Tatad. Mr. President, there is an Additional Reference of Business, it is only short. With the consent of the Chamber, I move that we dispense with the reading of this Additional Reference of Business and consider the same as read and inserted into the record.

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

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

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Senator Tatad. We would like to thank Senator Enrile for his interpretation.

Mr. President, two other senators have made their reservation to interpellate the sponsor of this measure, but they are not ready to do so right now.

SUSPENSION OF CONSIDERATION OF S. NO. 1595

So, I move that we suspend consideration of Senate Bill No. 1595.

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

BILL ON SECOND READING
S. No. 2033-- Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? *[Silence]*
There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, we are now in the period of interpellations. I ask that the distinguished sponsor, Ramon B. Magsaysay Jr., chairman of the Committee on Trade and Commerce, be recognized, and to interpellate, Sen. Robert S. Jaworski.

The President. Sen. Ramon B. Magsaysay Jr. is recognized, and Sen. Robert S. Jaworski is likewise recognized to interpellate.

Senator Jaworski. Thank you, Mr. President.

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Will the honorable Senator from Zambales answer a couple of questions from this representation?

Senator Magsaysay. Willingly, Mr. President, to the gentleman from Manila and the Cordilleras, particularly Baguio City.

Senator Jaworski. Mr. President, as a result of the GATT-WTO, the Philippine market is flooded with a lot of imported goods. These are not only industrial goods but also agricultural items.

Is this particular bill envisioned to address such import surge and are all products covered?

Senator Magsaysay. That is correct, Mr. President. This is the third leg of our intention to level the playing field since we passed the WTO in 1994. As mentioned earlier, during my sponsorship speech, the first two were the antidumping and the countervailing measures which are now laws that were sponsored by our colleague, Sen. Juan Ponce Enrile. This is now the final leg. So that if there will be a serious injury to our local industry, whether manufacturing, industrial, or on the other side, agricultural, agribusiness, then this will kick in, especially the special safeguard measures or SSG.

Senator Jaworski. Mr. President, could the gentleman kindly give us a specific example of how this measure is envisioned to work.

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Let us say, a few weeks ago or even at present, we have an influx of imported chicken parts. How does the gentleman envision this measure to work against these importations?

Senator Magsaysay. Mr. President, let us take the case of chicken legs which are part of the chicken. We know how the poultry industry has been threatened with serious injury because of the surge of importations of chicken parts, from a 100 percent increase, 1997-1998, to 2,021% or 20 times from 1998-1999. So if the bill became a law during this big importation of chicken parts, then the special safeguard measure will kick in. Then the Secretary of Agriculture, who is in charge of agriculture,--in this case, Secretary Angara, a former colleague--will be able to put the safeguard measures and to increase the tariff on these chicken parts up to even 100% based on our present Tariff and Customs Code.

Senator Jaworski. Then the safeguard measure is definitely focused on tariff. But would the gentleman also be speaking of quantitative restrictions? Would we also be taking quantitative restrictions other than tariff?

Senator Magsaysay. May I ask the gentleman to restate the question, Mr. President?

Senator Jaworski. As the gentleman said, in order to control the upsurge of importations at a very cheap price, we have to increase the tariff. But is this the only way or will we also come up with a certain degree of quantitative restrictions as far as these imports are concerned?

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Senator Magsaysay. Our committee tries to work within the upper limits of the WTO Agreement of 137 countries, of which our country is a member. And to stay away from stating that quantitative restrictions will be used, we made a survey among countries as to how the safeguard measures of each country are addressed, whether QR should be used or not as a provisional general safeguard measure. We came up with a.....

SUSPENSION OF SESSION

I move that we suspend the session for 30 seconds, Mr. President.

The President. The session is suspended for 30 seconds, if there is no objection. *[There was none.]*

It was 5:24 p.m.

RESUMPTION OF SESSION

At 5:24 p.m., the session was resumed.

The President. The session is resumed.

Senator Magsaysay is recognized.

Senator Magsaysay. The consultants made mention of the fact that of other WTO member-countries, only the United States provides for quantitative restrictions. But this is not because the U.S. willed it. The U.S. law providing for safeguard measures is the United States Trade Act of 1974, way, way before the 1994 GATT and the WTO Agreements were ratified. The U.S. Trade Act has not been amended to make U.S. trade legislation WTO-consistent. While those countries like Argentina, Colombia, Korea and/or Thailand are sticking

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to tariffication--meaning, staying away from mentioning "quantitative restrictions"--we have adopted the Australian model which is actually embedding the use of QR or quantitative restrictions without mentioning QR. I think the Senator from Baguio City and Metro Manila will find that in the provision of this measure.

Senator Jaworski. Mr. President, I understand that the committee report took notice of the present laws of the United States, the European Union and Australia on provisional measure.

After which laws are we patterning this measure?

Senator Magsaysay. We felt that the Philippines, being still not as competitive as the other countries.... We are referring to page 5, Section 8 of the bill, the *Provisional General Safeguard Measures*. The second paragraph of the section says: "Such measures should take the form of tariff increases to be paid through cash bond unless"--this is the key phrase--"that would not be sufficient to redress or prevent injury to the domestic industry". This is very close to the safeguard legislation of Australia.

Senator Jaworski. Mr. President, would this mean then that if, indeed, critical circumstances are on hand, we might go and apply a certain degree of quantitative restrictions?

Senator Magsaysay. That is correct, Mr. President. In fact, when our technical working group met at least three

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times with the DTI and the Department of Agriculture representatives, they made a long discussion about this, and both the representatives of DTI and DA finally arrived at an agreement that the Australian measure would be the most appropriate since this will cover both agricultural and industrial articles, goods or products.

Senator Jaworski. Then is it safe to say, Mr. President, that the basic difference between the two measures we passed--the countervailing duties and the anti-dumping duties--is precisely a certain degree of quantitative restrictions?

Senator Magsaysay. Yes, that is correct, Mr. President. The antidumping which is defined here as arising from the difference between the normal value and export price or the use of government subsidies on the exported products, has to be established. So, the dumping situation has to be established and the antidumping remedy is applied against exporter, while the countervailing is against the subsidizing country, while the safeguard measure is against all countries if there is a threat of serious injury.

So in the general safeguards, there is no requirement to demonstrate the existence of an unfair trade practice. But when we see a serious injury, then we can make use of the general safeguard measure.

Senator Jaworski. Thank you, Mr. President.

Aside from the anti-dumping duties and the countervailing duties that are in place, what other safety

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nets, policies or directions do the government have to make our products and our industries competitive?

Senator Magsaysay. Mr. President, this is the question of a businessman. I can see that the acumen of our Senator, being the wealthiest in terms of net worth, is coming out with this particular question: What particular safety nets are being put together since 1994 where our local producers may not only be protected, but become more competitive?

We have projects in the executive department and we have also laws that have been passed since 1994. I mentioned earlier the two laws--the Countervailing Law, Republic Act No. 8751 of Senator Enrile and Republic Act No. 8752, the Anti-Dumping Law.

President Estrada issued Executive Order No. 87 on sugar tariff assistance last April 1999. Every year, the Department of Agriculture and the Department of Trade and Industry get budgetary assistance in the annual General Appropriations Act.

Among the programs include DRIVE--this is the Development Rural Investment Venture Enterprise--of the DTI; the present Unlad Buhay Program which all senators are familiar with; of course, the RP-JICA Pesticide Monitoring System in the fertilizer and pesticides sector; the enhancement propagation of breeding of animals; strengthening of the artificial insemination; the National Mating Program catering to the buffalo sector; Agrikulturang Makamasa Program of the fisheries sector. Of

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course, we have the AFTMA which we passed during the last first session of the Tenth Congress in which the present Secretary of Agriculture, Edgardo J. Angara, was the key author and sponsor. We all supported that.

Of course, the usual farm-to-market roads; the postharvest facilities; strengthening our technical and productive capacities by working through cooperatives; and a lot of other financial and technical measures which are supposed to enhance the competitiveness of our farm sector and also to become exporters.

But if we look at our data of how the top agricultural export products have fared between 1994 and 1999, we will see a different ball game. We gleaned from the Bangko Sentral ng Pilipinas how our top agro-based exports in 1994 fared--in 1999 or five years after. The coconut oil has a 3.52% share of total exports. The exports in 1994 then totaled P13.482 billion and coconut oil was 3.52% in 1999. The same coconut oil is now only .98%, not even 1% of the total export of US\$35 billion for 1999.

So there is a slide, percentagewise, from 3.52% to .98%, and also a slide in value from US\$475 million to US\$342 million.

Shrimps and prawns--fresh, chilled or frozen--fresh bananas, pineapple and pineapple products, desiccated coconut, sugar and sugar products are the top agri-based exports. From 1994, these totaled 8.92% of our total

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exports, and only 2.81% of our total exports last year in 1999.

So it seems that the safety nets and all these laws that we have passed have not been implemented well or were not given enough funding or management expertise to be able to answer the competitive situation of our farm sector.

Senator Jaworski. I thank the distinguished sponsor for those answers, Mr. President.

This measure, obviously, is going to address a certain degree of our concerns and anxieties as far as the influx of imported goods are concerned.

The distinguished sponsor may correct me if I am wrong. But I feel that these are only very temporary solutions. I honestly believe that we have to go deeper into an analysis of the relationship of technology and capital equipment.

Even in our agricultural sector, I feel that no matter what protection we put together relative to tariff, there is a certain degree of unfairness to the consuming public. While the world enjoys a relatively low-priced, better-quality produce, we continue to be burdened with higher-priced, less satisfactory produce as far as quality is concerned. Do we have certain policies in place as far as the importation of capital equipment is concerned, Mr. President?

Senator Magsaysay. Mr. President, that is a very good analysis of our situation because we are now basically naked

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in terms of tariffs going down and quantitative restrictions not to be used.

In terms of importation for capital equipment under the AFTMA law, if it is for agriculture, if I remember correctly, this will be tax-exempt, except for E-VAT. So the AFTMA law, being one of the landmark measures in the Tenth Congress, has a very strong and supportive approach in encouraging the modernization of our farm sector. But this has not helped because, maybe, either the government has not gotten the formula or the right combination or, I would even venture to say, that our farm population does not make use of management expertise and organization which food corporations like San Miguel, RFM or even other smaller outfits have found out. Maybe a more privatized approach, supported by government funds and laws but using the efficiency and less wasteful private approach would be the winning combination. These are the things that we have to look at on the basis of our consuming public, our society--to provide equally price-effective and quality-value products, goods or articles.

Senator Jaworski. I would like to thank the gentleman for that, Mr. President. Is the distinguished Senator aware of our funding support especially to the agricultural sector? While there would be an abundance of technology and management expertise, if there is not enough funding available, I do not think anything will move.

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Senator Magsaysay. That is true, Mr. President. Funding is always a problem, not only in agriculture but all over the place, whether we are in government or in the private sector. The agriculture department has not been given enough funds because of our budget limitations. We have a big budget deficit. However, it is doing its best with the limited resources that it has.

I still think that we have to encourage the private sector to believe and to know that if they invest in agriculture--because it is food and food is a large industry--and if we allow joint partnership and make use of modern research, like this genetically modified organisms or GMO by technology, we will be able to attain the objective that we seek out to do--that food security is really part of national security.

Senator Jaworski. I would like to thank the gentleman for those answers, Mr. President.

Lastly, I honestly believe that what we truly have to come up with is a strategic trade and agricultural alliance with the successful countries of the world. Aside from investment and capability, it is indeed in technology that the difference lies. Even in our manufacturing industry, I see the death of many industries in manufacturing because up to now our packaging or canning of, say, meat products is very unsafe, not to mention the fact that even the contents are truly of lesser quality and still call for a more expensive price.

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I congratulate the Senator for this very laudable and worthy measure. I hope this Chamber will support this measure. Thank you very much, Mr. President.

Senator Magsaysay. Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President. I would like to thank Senator Jaworski for his interpellation. There are a few other senators who have made reservations to interpellate but not ready to do so right now.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

I therefore move that we suspend consideration of Senate Bill No. 2033.

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

Senator Tatad. Mr. President, tomorrow we shall take up a number of local bills. After that, next week, while we await the next energy measure which we agreed to give priority to, we shall be debating on the Absentee Voting bill. We just like to anticipate that with the members of the Chamber.

SUSPENSION OF SESSION

For the meantime, I move that we suspend the session until ten o'clock tomorrow morning.

The President. Is there any objection? [*Silence*]
There being none, the session is suspended until ten o'clock tomorrow morning, May 18, 2000.

It was 5:45 p.m.

WEDNESDAY, MAY 24, 2000

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RESOLUTION DIRECTING THE COMMITTEE ON FOREIGN RELATIONS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO CROSS-BORDER TRAVELS OF FILIPINOS TO AND FROM SABAH WITH THE END IN VIEW OF DETERMINING APPROPRIATE GOVERNMENT POLICY ON THE ENTRY AND EXIT OF FILIPINOS FROM MALAYSIA AND OTHER NEIGHBORING COUNTRIES IN THE ASEAN, THEREBY AVOIDING NATIONAL EMBARRASSMENT WHICH MAY IMPAIR THE RELATIONSHIP OF THE PHILIPPINES WITH SUCH COUNTRIES

Introduced by Senator Ople

The President. Referred to the Committee on Foreign Relations.

The Majority Leader is recognized.

OFFICIAL VISIT OF BARANGAY OFFICIALS FROM CONSOLACION, CEBU AND SCHOOLTEACHERS OF BASAK ELEMENTARY SCHOOL, LAPU-LAPU, CEBU ACKNOWLEDGED

Senator Tatad. Mr. President, we would like to acknowledge the presence in the Hall this afternoon of barangay officials from Garing and Casilic in the Municipality of Consolacion, Cebu, and elementary school teachers of Basak Elementary School, Lapu-Lapu, Cebu.

They are here to listen to our senators, particularly those running for reelection.

The President. The Majority Leader may want to mention those who are running for reelection. *[Laughter]*

Senator Tatad. Those running for reelection are: the Senate President, Senators Serge Osmeña, Flavio, Magsaysay, Honasan, Enrile, and Miriam Defensor Santiago. I think I mentioned all.

The President. Thank you.

BILL ON SECOND READING
S. No. 2033--Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? *[Silence]*
There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, we are still in the period of interpellations. I ask that the distinguished sponsor of the measure, the chairman of the Committee on Trade and Commerce, Sen. Ramon B. Magsaysay Jr., be recognized, and to propose some questions, Sen. Serge R. Osmeña III.

The President. Sen. Ramon B. Magsaysay Jr. and Sen. Sergio R. Osmeña III are recognized.

Senator Tatad. Both are running for reelection.
[Laughter]

SUSPENSION OF SESSION

Senator Osmeña (S). I move that we suspend the session for one minute, Mr. President.

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

It was 4:06 p.m.

RESUMPTION OF SESSION

At 4:28 p.m., the session was resumed.

The President. The session is resumed.

Sen. Sergio R. Osmeña III is recognized.

Senator Osmeña (S). Mr. President, would the distinguished sponsor of Senate Bill No. 2033 yield for a few questions?

Senator Magsaysay. Certainly, Mr. President.

Senator Osmeña (S). Thank you, Mr. President.

Mr. President, the purpose of this bill is to protect our local producers from import surges in the importation of products that might constitute a threat to domestic industries and farmers--domestic producers of agricultural products. May we know if the bill has considered including quantitative restrictions?

Senator Magsaysay. The bill, particularly Section 8, has a statement which will readily be interpreted that it includes without mentioning the term "quantitative restrictions" or QR.

Senator Osmeña (S). Would the sponsor like to read that particular provision?

Senator Magsaysay. Will I read the section?

Senator Osmeña (S). No, just the provision which implies the QRs or the quantitative restrictions, just the line.

Senator Magsaysay. Yes, Mr. President.

This is in Section 8, second paragraph. It states:

Such measures should take the form of tariff increases to be paid through cash bond unless that would not be sufficient to redress or prevent injury to the domestic industry.

Senator Osmeña (S). For purposes of interpretation later on, does this sentence imply that quantitative restrictions may be resorted to?

Senator Magsaysay. That is correct, Mr. President.

Senator Osmeña (S). Mr. President, in the United States Tariff and Customs Code of 1974, the United States uses the term "quantitative restriction," does it not?

Senator Magsaysay. That is correct, Mr. President. This was a law passed way before the WTO regime. This was passed in the United States in 1974 as the gentleman mentioned.

Senator Osmeña (S). The WTO was signed sometime in 1994?

Senator Magsaysay. That is correct, Mr. President.

Senator Osmeña (S). And in the last six years, although I know that the distinguished sponsor cannot be asked to read the minds of the policymakers in America or the members of Congress, it seems that in the last six years, they have not taken the steps to correct or to delete the term "quantitative restrictions" from their law.

Senator Magsaysay. It appears that way, Mr. President, although we have not deeply researched into the reason or reasons. It could be that they have prioritized other measures and have not thought it necessary to amend their tariff laws. However, the U. S. has never used QRs for a provisional measure despite allowing it to be still a part of the laws of the land.

Senator Osmeña (S). Tama po iyan, pero alam po ninyo, pag nasa batas po nila, magagamit nila in the future. In other words, because they are authorized to use QRs, just

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because they have not used it in the last six years does not mean they cannot use it in the future if they deem fit to use it to protect their farmers and to protect their domestic industries.

Mr. President, Uruguay also uses the term "quantitative restrictions" as a provisional remedy.

Senator Magsaysay. That is correct, Mr. President. I think the country of Uruguay passed that particular measure in 1995.

Senator Osmeña (S). After the WTO.

Senator Magsaysay. One year after the WTO. That is correct, Mr. President.

Senator Osmeña (S). Had there been any sanctions against Uruguay for passing a law that includes quantitative restrictions?

Senator Magsaysay. I understand from my staff that that country has not invoked any of these safeguard measures.

Senator Osmeña (S). Therefore, if that is the case, if America can use the term "quantitative restriction" in the law as a provisional remedy; if Uruguay can include it and nobody objects, why can the Filipinos not protect their farmers and domestic industries by also expressly using the term "quantitative restriction" although we may not use it?

Senator Magsaysay. As a matter of fact, this is one of the contentious issues that the technical working group--which includes the heavy hitters from both the Department of Agriculture and the Department of Trade and Industry--had finally resolved: accepting the so-called Australian model on the provision that without mentioning per se the "quantitative restriction" term, still it is embedded in that paragraph that I talked about earlier which, if the tariffication is not enough, the country can still go into other means, mainly QRs.

Senator Osmeña (S). Yes, we understand that, Mr. President.

Senator Magsaysay. Mr. President, may I ask my cosponsor to add to my statement.

The President. Senator Enrile is recognized, with the permission of the two gentlemen on the Floor.

Senator Enrile. With the permission of the two gentlemen. Mr. President, that remedy is provided in Section 12 of this measure, and may I read it.

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

Upon its positive final determination, the Commission shall recommend to the Secretary an appropriate general safeguard measure, in the form of either a tariff adjustment, increase in tariff quota rate and/or reduction in the market access commitments or a quantitative import restriction.

Senator Osmeña (S). That is in Section....

Senator Enrile. Section 12.

Senator Osmeña (S). Very good. Mr. President, I just wanted to bring up before the members of this Chamber the fact that owing to the very low-bound tariff rates that the Philippines committed on its various commodities--agriculture and nonagriculture--on the WTO, we must make compensating moves. As an example, if we are to export our sugar to the United States, we will have to pay a duty of US\$0.16 a pound. When world sugar comes into the Philippines at a world-market price of, let us say, US\$0.06 a pound, the importer has to pay only US\$0.03 or 50%. In other words, we fell flat on our faces in committing very low tariff rates to the WTO in 1994.

Sometime in 1994 and 1995 when we made our commitments to the WTO--and I am looking for a way to correct that mistake or mistakes by protecting in some other way our local producers--it is patently unfair that Japan, for example, is able to charge a 300% duty on sugar imported to Japan beyond its minimum access volume commitments, and on the other hand, the Philippines can only charge a 50% duty. Now, since this is a matter of policy here, may we know from the sponsor if his committee has been able to study this particular area, which has been causing our farmers and producers a lot of problems, and what other safeguards aside from this particular bill is the administration intending to implement in order to correct those imbalances in our commitments?

Senator Magsaysay. Well, Mr. President, the provision which I stated earlier does not remove that term--if it has to be the decision of the Secretary, the authorized entity

of agriculture for that matter--to go into quantitative restriction. We just want to be aligned with the rest of the other countries after 1994, except for Uruguay as we mentioned, that we are staying away from using that term but still having the use of that term, if need be, to prevent serious injury. I think even Thailand does not have quantitative restrictions (QRs) in its laws. I think Thailand would be the most similarly situated country as the Philippines. Venezuela does not have QR. We have a list here. Colombia does not have that either.

Senator Osmeña (S). May I know in what way is Thailand similar to the Philippines?

SUSPENSION OF SESSION

Senator Magsaysay. May I have a minute's suspension, Mr. President, while I gather my data?

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

It was 3:48 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

Senator Magsaysay. Mr. President, on the matter of provisional measures, the country of Thailand does not use QRs. Section 7 of the Provisional Safeguard Measures of the Thailand law does not mention any QRs. But on the matter of final definitive measures, of course, it is allowed under the WTO that QRs may be imposed.

Senator Osmeña (S). Mr. President, the reason I asked why Thailand is being used as a comparison to the Philippines is: Is it because Thailand's cost of production is one-half of that of the Philippines?

Senator Magsaysay. I do not know about that, Mr. President.

Senator Osmeña. That is why it is not proper to use Thailand as an example because Thailand, since 30 years ago, had a very focused agricultural program which is the reason why its cost of production in rice is one-half of ours; the cost of production in sugar is one-half of ours, and it probably has better mangoes, better patis, better fruits and vegetables, better lansones than Filipinos produce today when Thailand got all its technology from the Philippines. It would be very difficult to say that Thailand would be

something we should compare ourselves to, at this point in time, as far as agricultural development is concerned.

So, Mr. President, that is the reason why I will not use Thailand as a model for....

Senator Magsaysay. I do not mind if the gentleman from Cebu uses another country. I will welcome that, Mr. President.

Senator Osmeña (S). Maybe we can use Bangladesh, Mr. President. But in any case....

Senator Magsaysay. I would think that Bangladesh might be the ideal country. But as far as the population and the per capita are concerned, it is quite close to Thailand for that matter. Besides, the land area of Thailand in terms of agriculture is much more than that of the country since we are a fragmented archipelago.

But still, in terms of Thailand and the Philippines being both focused on agri-business, agriculture, I made mention of that. But if the gentleman wishes that Bangladesh is the country, I do not have any problem with that.

Senator Osmeña (S). Mr. President, the purpose of safeguards bills, which are being considered in all WTO-member countries, is to be able to fine-tune protection for domestic producers of both agriculture and nonagricultural products.

Now, some countries are more efficient than we are in some products and, maybe, we might be more efficient than other countries in other products. But it has become very clear that as far as--and I speak particularly of agricultural products--agriculture is concerned, we are one of the most inefficient as far as costs of production are concerned. Therefore, if we do not balance this off, at least in the short term, by bringing in provisions that will protect the farmers, I believe that we are in for some terrible social, political, and economic disasters.

Which is why, Mr. President, I seek to push the envelope on this particular provision to protect our farmers. The second point that I would like to make is--again I will go back--our commitments on the bound rates were too low. We have been stuck with them for sometime and it seems the process to revisit those bound rates that we committed to the WTO will take as long as three years, if I am not mistaken. We have the representatives from the Department of Trade and Industry and the Department of Agriculture with us here. So I am hoping that this Chamber will see fit to push the envelope as far as we can on this

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particular issue so that we may, at least, in the short term and medium term, protect our farmers until the safety nets that have long been promised by the government since 1994 when this Chamber acceded or ratified the country's accession to the WTO are put in place.

Mr. President, earlier, the distinguished Senator from Cagayan mentioned that Section 12 of the bill includes quantitative restrictions, in Subsection C. But this is not a provisional QR. This is a final QR. This is after an investigation has been made.

Now, let me give an example. The Philippines suddenly was faced with an import surge on chicken leg quarters recently. And the Department of Agriculture, rightly so, said, "Stop." We are not bringing in chicken leg quarters. Now, is that a quantitative restriction or not?

Senator Magsaysay. Well, it is not.

Senator Osmeña (S). It is not. What would it be called?

Senator Magsaysay. It should be a special safeguard measure, *de facto*.

Senator Osmeña (S). But quantitative in nature? It is not tariff.

Senator Magsaysay. Yes.

Senator Osmeña (S). Mr. President, the distinguished sponsor said that it is not a quantitative restriction. I maintain it is because it just locked out everybody regardless of tariffs.

Senator Magsaysay. This is a decision that was made by the Secretary without the law being in place. This is the measure that we are trying to put in. So he made a basis of a *de facto* decision seeing the serious injury being inflicted on our local poultry industry and of course the other meat industry.

Senator Osmeña (S). So therefore, Mr. President, if we pass this bill, we are taking away from the Secretary of Agriculture the power to immediately compensate imbalances and stop the import surge until it goes through a 10-month process by which time the chicken industry might have collapsed already?

Senator Magsaysay. Well, we have in the provision the provisional QR that gives him that....

Senator Osmeña (S). There is no provisional QR, Mr. President.

Senator Magsaysay. Again we go back to Section 8, Mr. President.

Senator Osmeña (S). I see. That is why, at the proper time, would the distinguished sponsor accept an amendment that will include the phrase "quantitative restriction"?

Senator Enrile. Mr. President.

Senator Magsaysay. I yield to the gentleman from Cagayan.

The President. Senator Enrile is recognized.

Senator Enrile. I think in the case of general safeguards, provisional remedies would not allow a quantitative import restriction. It only allows tariff increases. We cannot impose as a provisional safeguard measure quantitative import restrictions on any product if we apply the provisions of the general safeguards of the WTO. And in the case of the special safeguards that are applicable specifically to agricultural products, I think there is no provision for a provisional safeguard.

Senator Osmeña (S). Mr. President, in the bill, Section 8, this representation was able to elicit from the distinguished sponsor the fact that the phrase he used and I will quote:

Such measures should take the form of tariff increases to be paid through cash bond unless that would not be sufficient to redress or prevent injury to the domestic industry.

could also include or imply quantitative restrictions.

Senator Enrile. But, Mr. President, we cannot go beyond what we have committed when we adhered to the WTO. That is the misfortune that we have.

If we look at Article 6 of the Provisional Safeguard Measures--and I would like to read it into the Record--it says:

In critical circumstances where delay would cause damage which it would be difficult to repair, a Member may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury. The duration of the

provisional measure shall not exceed 200 days, during which period the pertinent requirements of Article 2 through 7 and 12 shall be met. Such measures should take the form of tariff increases to be promptly refunded if the subsequent investigation referred to in paragraph 2 of Article 4 does not determine that increased imports have caused or threatened to cause serious injury to a domestic industry. The duration of any such provisional measure shall be counted as a part of the initial period and any extension referred to in paragraphs 1, 2 and 3 of Article 7.

That is all that is authorized to a Member-country under the general safeguard provisions.

Senator Osmeña (S). All right. First, before that, Mr. President, I just have a follow-up question. If in Section 8, the distinguished sponsor says it may include QRs, does the cosponsor say it may not include QRs anymore because the sponsor and cosponsor have taken contradictory positions?

Senator Enrile. Mr. President.

The President. Senator Enrile may reply.

Senator Enrile. Mr. President, if we are going to include QRs in the safeguard measures, we might expose ourselves to a dispute-settlement issue with the WTO members because we will be violating, in effect, the provision of the World Trade Organization.

Senator Osmeña (S). Mr. President, as we mentioned earlier, Uruguay has QRs, the United States has QRs, and there has been no challenge made to any of their safeguard legislation. There has been none. So why can we not include it here just as a safety valve, an extra measure of security for our farmers? That is all I am asking. Mayroon rin po ang Uruguay niyan. Hindi naman na-challenge. Noong 1995 pa iyan.

Senator Enrile. For my part, Mr. President, I am willing to go along with the suggestion of the gentleman that we include it. But I think we should be made aware of the fact that if a member will challenge this and bring us to dispute-settlement problem with the World Trade Organization, then we must be aware of this possibility.

Senator Osmeña (S). Yes, Mr. President. We are aware of that possibility.

The President. There is a query from the Chair. Is Section 8 not broad enough to include QRs without the same being so specified?

Senator Magsaysay. Actually, Mr. President, that is what I have mentioned all along, because after three or four meetings of the TWG, both the Departments of Agriculture and Trade and Industry have finally decided to adopt and agree on using the so-called "Australian" model which is the embodiment of Section 8. Without mentioning the term QR, it is embedded in the way it is phrased. That is why we are pushing for this.

The President. Thank you.

Senator Osmeña (S). The Chair understands the....

Senator Magsaysay. Also, Mr. President, the Australian model has never met any objections from other countries. The WTO has not even made mention of that particular model, not even the U.S. and Uruguay have been challenged for their own safeguard legislation.

Senator Osmeña (S). That is why I am asking the sponsor to consider using the U.S. and the Uruguay models for the simple reason that they mention quantitative restrictions and have not been challenged.

Senator Magsaysay. These are laws--the U.S. is 1974 law and Uruguay was a year after the ratification--and I will go with my cosponsor, the Chairman of the Committee on Ways and Means, that we should not mention in black and white quantitative restrictions because this is the embodiment of the WTO, that this is the tariffication.

Senator Osmeña (S). But that is not what the gentleman's cosponsor just said.

Senator Enrile. I just want to call the attention of the Chamber. If we read Article 6, "Provisional Safeguard Measures," it says:

In critical circumstances where delay would cause damage which it would be difficult to repair, a Member may take a provisional safeguard measure.... Such measures should take the form of tariff increases to be promptly refunded if the subsequent investigation referred to in paragraph 2 of Article 4 does not determine that increased imports have caused or threatened to cause serious injury....

Article 5 of the same Treaty says:

Application of Safeguard Measures

1 A Member shall apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

This provision contemplates that there is already a determination of serious injury to industry and that a causal link between the import surge and that serious injury has been established. That can be established only after we apply Section 12 of the present bill after the Tariff Commission shall have finished its hearing and made a determination that there is an import surge and that this import surge is the cause of a serious injury to an industry producing identical, similar or like products produced in the country.

The President. May the Chair know from Senator Enrile if Section 8 would be violative of the GATT-WTO commitments, as presently worded?

Senator Enrile. I do not think so, Mr. President. But if we are going to spell out in detail a QR, I think we might be establishing a clear evidence of violation.

The President. But the QR would be included in the broad language of Section 8.

Senator Enrile. In the final determination.

Senator Osmeña (S). That is the whole point, Mr. President, and I cannot understand because on the one hand, the cosponsor had just said, "That is okay, I have no objection to including that as long as you realize that we may be questioned later on." And also, corollary to that, the distinguished sponsor had also said that, "Well, the United States law was passed in 1974 and Uruguay's was in 1995." So, Uruguay's law was passed after the WTO. Were they questioned? They were not questioned. So, what is wrong then with the Philippines putting in QR? If we are questioned, we can amend the law later and remove it if we need to. But I would like to send a signal to those guys at the WTO that the Philippines intends to correct the mistakes that it made, consciously or unconsciously, in making those bound-rate commitments in 1995. This is merely a signal.

Senator Magsaysay. This is fine, Mr. President, coming from the gentleman from Cebu who is the Chairman of the Committee on Agriculture and Food and also the Chairman of the Coco Farm Oversight Committee on the modernization of the agricultural sector.

We appreciate this. We are exactly in the same wavelength in the sense that we have decided to sponsor this

measure which was rushed because this is the last leg of the three-leg protective measures, the first being the anti-dumping, and then the countervailing, both ably sponsored by Sen. Juan Ponce Enrile. So this is the third leg to protect our industry from serious injury.

But there are certain other sectors which we have not even mentioned that would also want to be heard because this is now the world global liberalization. And, of course, the consumer, which is represented by the Department of Trade and Industry, has to be heard. That is why we had a TWG hearing, and we came up with an almost solomonic agreement between the two government agencies representing the farm sector, the industrial and consumer sector for them to accept Section 8, the so-called Australian model provision. And for us to go into stating clearly, as mentioned by the gentleman from Cagayan, that if we should mention QR, it might put us in trouble.

The Committee chairman stands that we support and defend Section 8, unless our colleagues will say otherwise, because it is the Plenary that will decide once and for all which model to use or which provision to use, whether to use QR or just have it embedded without stating so in interpreting that basically, QR will still be ultimately used, if it must be used.

So if the Senator from Cebu would like to make his amendment, we will welcome it and let us have the Body support one way or the other. I will welcome that.

Senator Osmeña (S). Thank you, Mr. President. Just a comment because the cosponsor has read Article 6 of the WTO Agreement on Safeguards. One of the sentences there which is probably the dispositive portion of this paragraph reads again as follows: "Such measures should take the form of tariff increases." The word "should" is used, instead of the word "shall" and some of our legal advisers maintain that the use of the word "should" is merely persuasive, and not mandatory. I am not a lawyer so perhaps the lawyers in this Chamber could enlighten us on that. Atty. Tatad is willing to clarify....

Senator Magsaysay. I think I agree with the gentleman, Mr. President. "Should" is persuasive and is like suggestive and is not mandatory.

Senator Osmeña (S). So it does not preclude quantitative restrictions. It just encourages the use of tariff increases instead.

Senator Magsaysay. It could be correct. It should be correct.

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Senator Osmeña (S). Thank you for that, Mr. President.

Senator Magsaysay. But the objective is still to focus more on tariffication which is the general idea of the WTO and less QR. And if and when necessary it must be used, it is still embedded in that Section 8.

Senator Osmeña (S). Yes, Mr. President. This issue to me is a matter of sending a signal. We have been negotiating. I do not know what is wrong with our government officials. When we negotiated the VFA with the Americans, we did not negotiate from strength but from weakness. Pabakla-bakla po tayo diyan. When we negotiated the WTO, it was the same thing. And the one who has to eat the mistakes are the farmers and I do not think we should allow that to happen any longer.

Now if our negotiators to the WTO are afraid, then why do they not resign? We can replace them with some people who have a little bit more courage and are willing to stand up for the Filipino farmer and the Filipino worker.

That is why, Mr. President, while I agree that the meaning of "QR" is embedded in Section 8, again, I want to send the signal by including the phrase "quantitative restrictions."

Mr. President, on another point....

Senator Magsaysay. The point of the gentleman is well-taken. However, I still believe that the decision of the committee to use the Australian model provision should be supported.

Senator Osmeña (S). So we will have to face this issue during the period of amendments.

Senator Magsaysay. That is correct, Mr. President.

Senator Osmeña (S). Mr. President, may I know then if quantitative restrictions in the gentleman's bill can only be used as a general safeguard measure and not a provisional safeguard measure. Whether it is silent, implied or explicit, can QRs be used as provisional measures?

SUSPENSION OF SESSION

Senator Magsaysay. I move that we suspend the session for a few minutes, Mr. President.

The President. Is there any objection? [Silence]
There being none, the session is suspended for a few minutes.

It was 5:06 p.m.

RESUMPTION OF SESSION

At 5:09 p.m., the session was resumed.

The President. The session is resumed.

Senator Magsaysay is recognized.

Senator Magsaysay. Mr. President, the gentleman from Cebu asked whether QRs are allowed as a provisional measure. I believe that the method of protecting through tariffication must be exhausted. However, Section 8 will state that "other means," meaning even QR may be resorted to as a final measure to protect a threatened industry in the provisional measure.

Senator Osmeña (S). Mr. President, we had an import surge of chicken of 11 million kilograms in the first quarter of the year 2000. While for all of 1999, we had a total import of 24 million, almost 25 million kilograms. I think the Secretary of Agriculture made the right move when he said, "Stop!" Stop the importation of chicken leg quarters from the United States which is roughly P18 a kilo while our farmgate price here is at P53 a kilo.

If he did not impose this as a provisional safeguard, in three to six months' time we would have wiped out the broiler industry. Therefore, I want to make sure that if we pass this bill, we are not taking away that power from the Secretary of Agriculture.

Senator Magsaysay. I understand, Mr. President, because when Secretary of Agriculture Edgardo Angara, our former colleague, decided swiftly to protect the industry from serious injury, he did so in a *de facto* manner. That is why he asked his former colleagues here in the Senate to rush this measure because there are no laws or existing executive orders that could put the legal framework on his decision. That is why this bill has even been certified, I understand, by the President so that we can pass it as soon as possible.

The gentleman and I have the same objectives, Mr. President. We are just saying that since the Philippines is one of the 137 countries that signed and ratified the WTO agreements, we should support this in the manner of attaining the objectives of the WTO on tariffication rather than quantitative restrictions.

But the members of the two committees, the Committee on Ways and Means and the Committee on Trade and Commerce, accepted Section 8, the gentleman's objective and our

objective, and even the Secretary of Agriculture has accepted this particular provision.

I do not know why we have to paint on our chests that we are sending a strong message. Because the Australian model is very subtle, very well-formulated, grammatically correct, and the QR is embedded without putting it across in black and white.

Senator Osmena (S). May we know then, Mr. President, whether Section 8--because the gentleman posited earlier that the Secretary of Agriculture asked us to rush this particular measure--would add to or detract from the powers of the Secretary of Agriculture to impose the type of action he did when he chopped down on the imports of chicken leg quarters from the United States, and other similar action, I think, he did with respect to imports on Australian products?

Senator Magsaysay. Yes, Mr. President. I understand and believe that this provision, Section 8, will add to the power and authority of the respective department secretary, in this case Secretary Angara, and it gives him sufficient flexibility to impose provisional QRs.

Senator Osmeña (S). May we know under what law?

Senator Magsaysay. This is the law.

Senator Osmeña (S). May I be allowed to finish?

May I know under what existing law the Secretary exercised his power to stop the imports of chicken and certain agricultural products from Australia?

Senator Magsaysay. There is no existing law when he made such a decision. But there is no ban.

Senator Osmeña (S). Excuse me, I did not understand the answer.

Senator Magsaysay. There is no law at this time.

Senator Osmeña (S). There is no law that authorizes the Secretary of Agriculture to....

Senator Magsaysay. Yes, we are trying to pass the law.

Senator Osmeña (S). So what the Secretary of Agriculture did is illegal?

Senator Magsaysay. No, we are not saying that it is illegal. We are saying that....

Senator Osmeña (S). If there is no law, Mr. President, it must be illegal. We cannot exercise action without legal underpinning. So if there is no law, it must be illegal.

Senator Magsaysay. Not necessarily. There is no law to break.

Senator Osmeña (S). No, Mr. President, I am not satisfied with that answer. Since the staff of the DTI and the lawyers are all there, I am asking for a little bit more candor in the response.

Senator Magsaysay. As far as I know, Mr. President, No. 1, there is no existing law that is why we are passing this safeguard measure; and No. 2, there is no ban on the importation of chicken parts, except that we are pushing hard on the duty-free shops that seem to be the conduit for overloading the local market. That ban happened because most of these were brought in through the duty-free shops. The Secretary of Agriculture sent us a wrong signal by cutting down on this, using existing laws of the Customs and Tariff Code.

Senator Osmeña (S). So there is a law? First, there is no law, now there is a law.

SUSPENSION OF SESSION

Senator Magsaysay. I move that we suspend the session for one minute, Mr. President. Maybe my colleague can come here so he can be enlightened.

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

It was 5:17 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed.

The President. The session is resumed.

Senator Magsaysay. Mr. President, I understand the concern of the gentleman from Cebu and I am with him. We have the same objectives. We can also say that, first, as far as the Secretary of the Department of Agriculture is concerned, there is no ban; and second, there has been an Administrative Order No. 16 which tightens quarantine rules based on phyto sanitary or sanitary issues, which requires import permits to be issued by the Secretary before the shipment of the product leaves the port of origin.

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Actually, AO No. 16 has desired to require license to import prior to opening of the letter of credit. However, what others are doing is just opening the letters of credit and forcing the department to issue the permit once the shipment comes in on the basis that it is already here. But the Secretary is very firm about this because he knows how the negative impact will be on our farmer population and it has effectively worked by stopping all these shipments into our shores of--maybe already very, very old in terms of months--chicken parts.

My point here, Mr. President, is that I can sympathize with the concerns of the gentleman from Cebu being the Chairman of the Committee on Agriculture and Food in championing the farmers. However, the executive branch headed by the Secretary has accepted Section 8, that it is strong enough, firm enough, and clear enough that there is the embedded ability to use QRs even if it is not expressly stated. He has accepted this and I think we should follow the Secretary who personally, like a mechanic, worked for this measure to be passed.

Senator Osmeña (S). I do not accept that, Mr. President. The Secretary is not a member of the Senate; he cannot vote.

Senator Magsaysay. I understand, Mr. President.

Senator Osmeña (S). The Senate decides what the law will be, and I do not think the Senate has to follow any secretary on any particular provision of law itself.

Mr. President, may this representation have a copy of Administrative Order No. 16.

Senator Magsaysay. We do not have AO No. 16 now, but we will certainly furnish this Body with a copy of it maybe tomorrow or the next time we meet with regard to this plenary session. It will be in the gentleman's possession tomorrow.

Senator Osmeña (S). Perhaps, we can leave this temporarily. I say "temporarily" because I intend to return to it at a later date.

Mr. President, let me just go to some little items on the list of definitions in Section 4. The word "compensation" is used. Why do we have to include "compensation" in our law?

Senator Magsaysay. Mr. President, "compensation" is part of the law because, in the WTO, this is part of the general safeguards.

May I quote on the General Safeguards: "Remedies include quantitative restrictions or increased duties. However, the remedy must be compensated for by selective liberalization in other products."

For example, if a general safeguard measure will be imposed on templates from, let us say, South Korea to the Philippines, Korea may request tariff reductions on cars as compensation. So there is a *quid pro quo*. We have included this so it will harmonize with the WTO.

Senator Osmeña (S). Mr. President, I do not think there is a need for us to include compensation. We should be silent on compensation. Although it does not prevent us from paying compensation, again, as a matter of positioning, I do not think we should include compensation in the law.

Senator Magsaysay. Mr. President, we are open to the gentleman's recommendation. If he wishes to have this deleted, my cosponsor and I will willingly accept his recommendation. For the so-called "strong message," we will accept.

Senator Osmeña (S). I thank the distinguished sponsor for that, Mr. President.

We also want to define the term "consumers." The bill includes the word "consumers". I was looking for a definition but it is not here. The sponsor may correct me if I am wrong. Is the term "consumer" defined in the bill?

Senator Magsaysay. Mr. President, as presently worded, we do not have the definition here. Again, if our distinguished colleague, for better effect, wants to define this, we do not mind to accept it.

Senator Osmeña (S). May I just narrow down then the definition.

Should we limit "consumers" to organized consumer groups? Because all 70 million Filipinos are consumers, and if anybody can come out and file a complaint, I do not think that that would be necessarily wise.

Senator Magsaysay. My cosponsor is asking in what section the word "consumer" appears.

Senator Osmeña (S). It is not defined. The definition does not appear, Mr. President.

Senator Magsaysay. It is not mentioned in any of the other provisions then.

Senator Osmeña (S). No. It is mentioned.

Senator Magsaysay. May we know from the gentleman in what section or article is it mentioned?

Senator Osmeña (S). This is not my bill, Mr. President. But I will look for it.

Senator Magsaysay. Mr. President, if the gentleman would like to define "consumer" as an individual or as a group collectively, we have no problem with that.

SUSPENSION OF SESSION

Senator Osmeña (S). I move that we suspend the session for one minute, Mr. President.

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

It was 5:29 p.m.

RESUMPTION OF SESSION

At 5:33 p.m., the session was resumed.

The President. The session is resumed.

Senator Magsaysay. Thank you, Mr. President.

Senator Tatad. The exchange that just took place was a conversation between two persons while the session was still suspended.

Senator Osmeña (S). So, Mr. President, I guess we will have to rewind and repeat.

Will the distinguished sponsor have any objection to narrowing down the definition of "consumers," as it will be used in this particular bill, to organized consumer groups?

Senator Magsaysay. We have no objection, Mr. President. We will accept the gentleman's amendment in due time.

Senator Enrile. Mr. President, with the permission of the distinguished gentlemen. The relevance of the word "consumer" has something to do with the interested parties to be notified in case a petition or application for safeguard has been filed. Now, I think the suggestion of the distinguished gentleman from Cebu is very valid. But in addition, we should consider the possibility of publication in order to notify the public so that anybody, any group or even a single consumer, who may have the capability of

litigating the issue, can come forward and participate in the hearing, not necessarily an organized consumer group.

But if the desire is to limit the participants to the proceedings to organized groups, I have no objection.

Senator Osmeña (S). This is something we wanted to explore, Mr. President. For example, somewhere down the line, in the implementing rules and regulations, the word "consumer" is just blindly used, without any definition. And he is given the power to file complaints. Sasabihin ng consumer, "Well, I want to import because it is cheaper for my pocketbook."

Senator Enrile. Mr. President, I think the application for safeguards cannot be filed by the consuming groups. But evidently, they are interested in maintaining the level of imports because that will benefit the consumers.

Senator Osmeña (S). Even increasing the level of imports.

Senator Enrile. Yes. That is why if we are going to limit the parties to be notified to organized consumer groups, then we will preclude such consumers like San Miguel Corporation and similar industries that might be affected by an application for certain safeguards against import surges on sugar, on corn or other inputs in industries. They are consumers in that respect.

That is why I was suggesting that in addition to the suggestion that we limit the word "consumers" to "organized groups" to be notified about the presence of an application for safeguards, we should equally provide a system of publication so that any interested consumer may come forward to participate in the proceeding.

Senator Osmeña (S). I have no objection to that.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Just to be helpful on this point. I believe the word "consumer" comes in in trying to define the phrase "interested parties." But this word is modified by the words "relevant domestic producers, consumers." So the phrase "relevant domestic" would modify the word "consumer" as well, not just "producers." I think, attention should be called to that.

Senator Magsaysay. Mr. President, I think one of the reasons why the gentleman wants to narrow the definition of "consumer" to an entity or a group would be to avoid any

ordinary person, any so-called Tom, Dick or Harry--not Harry and Ping--to come in and just get involved in issues which are more addressed to local producers or processors.

So, we will not object to the input of the gentleman from Cagayan of a publication on any amendment to improve the measure coming from the gentleman from Cebu.

Senator Osmeña (S). I thank the gentleman for that, Mr. President.

I do not mean to exclude even the consuming public, but they must be organized. We used to have a group here that is practically dead now.

The DTI should know the name of that group. It was headed by a lady. She is Polly Cayetano of the Consumers' Union of the Philippines. But of course, it has become a one-woman show. If such a group like that develops, they would have some validity in coming up with issues that would affect the public interest. But that is what I mean, Mr. President, otherwise the Tariff Commission and the Secretary's Office would be swamped with individual petitions, and we want to save them from that trouble.

Mr. President, there are some numbers I would like to study including AO No. 16. May I ask that I be allowed to suspend my interpellations today and reserve my right to continue my interpellations at a later date. As I understand it, the Minority Leader also would like to take his turn in interpellating. I would like to thank the Minority Leader for giving me the first crack this afternoon.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. Mr. President, with that manifestation, I move that we suspend consideration of Senate Bill No. 2033.

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

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session until ten o' clock tomorrow morning, Thursday, the 25th of May, year 2000.

The President. Is there any objection? [Silence]
There being none, the session is suspended until ten o' clock tomorrow morning, 25th of May, year 2000.

It was 5:41 p.m.

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to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO
Secretary General

The President. Referred to the Committees on Education, Arts and Culture; and Finance.

BILL ON FIRST READING

The Secretary. Senate Bill No. 2046, entitled

AN ACT SEPARATING THE MERIDA VOCATIONAL SCHOOL-MARGEN ANNEX LOCATED IN BARANGAY MARGEN IN THE CITY OF ORMOC, PROVINCE OF LEYTE FROM THE MERIDA VOCATIONAL SCHOOL AND CONVERTING THE SAME INTO AN INDEPENDENT NATIONAL HIGH SCHOOL TO BE KNOWN AS THE MARGEN NATIONAL HIGH SCHOOL AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Serge Osmeña

The President. Referred to the Committee on Rules.

The Majority Leader is recognized.

SUSPENSION OF SESSION

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

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

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4:44 p.m. the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING
S. No. 2033--Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

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

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, we are still in the period of interpellations. I ask that the sponsor, Sen. Ramon B. Magsaysay Jr., be recognized; and to interpellate, the distinguished Minority Leader.

The President. Sen. Ramon B. Magsaysay Jr. and the Minority Leader are hereby recognized.

Senator Guingona. Thank you, Mr. President. Will the distinguished sponsor yield for some questions?

Senator Magsaysay. Willingly, Mr. President.

Senator Guingona. Mr. President, may we know what is the definition of "agricultural products" covered under the WTO Agreement?

Senator Magsaysay. It is defined in Section 4, paragraph (a) on page 1. Does the distinguished gentleman want a list of the agricultural products?

Senator Guingona. Just the definition, Mr. President.

Senator Magsaysay. It is in Section 4, paragraph (a).

Senator Guingona. What is an "agricultural product"? This is a product covered under the WTO Agreement.

Senator Magsaysay. May I quote the definition, Mr. President.

"Agricultural product" refers to a specific commodity listed as an 8-digit item under Chapters 1 to 24 of the Harmonized System (HS) of Commodity Classification as used in the Tariff and Customs Code of the Philippines. For purposes of applying special

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safeguard measures in agriculture, "agricultural product" refers to a product covered under the WTO Agreement on Agriculture, whose quantitative import restriction had been converted into ordinary customs duties...

Senator Guingona. Thank you.

Mr. President, earlier, I had an understanding with Sen. Sergio Osmena that he take the initiative in the interpellation and I am willingly giving way to him with the reservation that after him, I will continue my interpellation.

Senator Magsaysay. All right.

The President. Sen. Sergio Osmena is therefore recognized for the period of interpellations as manifested by the Minority Leader.

Senator Osmena (S). Thank you, Mr. President. Will the kind sponsor yield for a few more questions?

Senator Magsaysay. Certainly, Mr. President.

Senator Osmena (S). Mr. President, let us go to the purpose or intention of this bill.

May we know from the distinguished sponsor why this bill entitled, "AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING EMERGENCY SAFEGUARD MEASURES AND FOR OTHER PURPOSES" is being considered?

Senator Magsaysay. Mr. President, this is one of those measures that the country needs in order to protect from serious injury or threat our local industries--agricultural or industrial.

Senator Osmena (S). Mr. President, since the Philippines acceded to the World Trade Organization in December 1994, may we know if the distinguished sponsor has any information as to why this bill is only being considered now in the year 2000 or almost six years after we joined the WTO?

Senator Magsaysay. Mr. President, the previous Congress had wanted to pass it, but somehow it never got to

pass, although the two other measures on anti-dumping and countervailing duties are already laws. But somehow, in this third leg--it is only now after six years as the gentleman mentioned--we are again putting the effort to finally make it into a law.

Senator Osmena (S). Will the distinguished sponsor be able to tell us how it would protect particular products like sugar, chicken or coconuts? May we be more specific?

Senator Magsaysay. We can make an assumption on, let us say, coffee or....

Senator Osmena (S). May we take sugar, for example, which has been greatly affected. How would this bill affect or protect local producers?

Senator Magsaysay. In the case of sugar, Mr. President, if there is a sudden surge in the importation, in the volume of sugar and somehow it reaches a trigger level, then in the special safeguard, the Secretary of Agriculture can immediately impose an increase on the tariff of sugar.

Senator Osmena (S). Let us explore that a little bit further.

First, under the special safeguards, there are two actions that can be undertaken--the trigger price or the trigger volume. Am I correct?

Senator Magsaysay. That is correct, Mr. President.

Senator Osmena (S). All right. Let us talk about the trigger price. What does the WTO say? What is the baseline for determining what that trigger price will be?

Senator Magsaysay. I think the baseline would be based on the preceding three years--1986 to 1988.

Senator Osmena (S). That is not correct, Mr. President.

Senator Magsaysay. There is a section 21 here....

Senator Osmena (S). Does the distinguished gentleman mean 1986, not three years preceding the import surge?

Senator Magsaysay. Yes, Mr. President.

Senator Osmena (S). All right, 1986. Let us say the world market price is the same, Mr. President. But in 1986, what was the peso-dollar exchange rate?

Senator Magsaysay. In 1986, it would be about P26.50.

Senator Osmena (S). Let us say, it was P25, to round off. What is the peso-dollar exchange rate today?

Senator Magsaysay. It is about P42 to P43 to a dollar.

Senator Osmena (S). Therefore, \$1 was P26 in 1986 to 1988 and \$1 today is P41, P42 or even P43. In what way can this particular clause on trigger prices protect the sugar producer?

Senator Magsaysay. This would be based on the dollar.

Senator Osmena (S). I would be very happy, Mr. President, if it would be based on the dollar. But under Article 5 of the WTO, entitled Special Safeguard Provisions on the Agreement on Agriculture, Section 1 (b) says "that the price at which the import of that product may enter the customs territory of the member granting the concession as determined on the basis of the CIF import price of the shipment concerned expressed in terms of its domestic currency"—can I repeat that, "expressed in terms of its domestic currency falls below a trigger price equal to the average 1986 to 1988 reference price for the product concerned."

So, can the gentleman perhaps revisit his answer, Mr. President? Seeing that it will be expressed in domestic currency, in other words, in pesos, how can the trigger price option under the special safeguard provision now protect our sugar or any other products that are imported where like product is also being produced domestically?

Senator Magsaysay. What section is this, Mr. President?

Senator Osmena (S). In the gentleman's bill, Mr. President?

Senator Magsaysay. Yes.

Senator Osmena (S). In the gentleman's bill, it is under Special Safeguards, the trigger price mechanism.

Senator Magsaysay. Is that in Section 21?

Senator Osmena (S). Section 21, yes, Mr. President. But what I quoted to the gentleman was Article 5 of the WTO Agreement on Agriculture, which determines that the prices shall be expressed in terms of the domestic currency of the member country and not in dollar, yen or in euro terms.

Senator Magsaysay. Yes, the CIF.

Senator Osmena (S). That is correct, Mr. President.

Senator Magsaysay. There are really inherent difficulties in the trigger price provision. I would accept any amendment if we have to compensate for these inherent difficulties.

Senator Osmena (S). I thank the gentleman for that.

That is why on the previous session day, when I interpellated the gentleman, I had been asking for additional protections such as the use of quantitative restrictions in the provisional safeguard, for the simple reason that the special safeguards for trigger price are hardly usable because of our devaluation.

What about the trigger volume, Mr. President? Let us take up the case of sugar or chicken or even coffee. How will it protect those people producing these? Can the gentleman give us a specific example?

Senator Magsaysay. If the gentleman can please refer to Section 20. So we are now looking at the Volume Test.

Senator Osmena (S). That is correct, Mr. President.

Mr. President, what I am trying to say is this, so we can short cut this discussion if the gentleman does not mind.

Senator Magsaysay. Yes, please.

Senator Osmena (S). In the last three years, the import surges have already been such that the baseline for the average of the previous or the preceding three years as determined by the WTO Agreement is already--as Dr. Flavier would say, "mute and epidemic,"--moot and academic because hindi na natin magagamit, nagkaroon na ng import surges. So, mataas na iyong baseline numbers natin.

In other words, we also missed out on passing this bill earlier. We should have passed this bill in about 1996. That was before the import surges happened and our previous baselines for the years 1993, 1994, and 1995 would have been much lower. It would have been a good trigger point. But right now, we have allowed so much imports already that our base import quantities are going to be very high such that it cannot enable the bill to afford the degree of protection it wants to give to the producers of the agricultural products in this country.

So, these are both under the Special Safeguards which are only applicable to agricultural products. We know that we can hardly use the trigger price or trigger volume effectively in protecting our producers because we are too late on that score. We could pass this bill, but still in the case of sugar, coffee or chicken, we cannot use it effectively anymore. Because we have allowed so much imports on these products for the last three years.

Senator Magsaysay. The figure volume is based on the last three representative years and does not include the years with the import surges. So, it could be in the years 1995, 1996 and 1997, and not in the years 1986, 1987, and 1988.

Senator Osmena (S). May we have that section, Mr. President?

Senator Magsaysay. This is the one that we used, the example of chicken, using 1995, 1996, and 1997 as the representative years and the import surge years are not included as representative years.

Senator Osmena (S). May we kindly have the section where it provides that. I remember such a section, but I cannot find it now. Where was that section? Is it Section 20 or Section 21?

Senator Magsaysay. Section 20, according to my co-sponsor.

Senator Osmena (S). Which particular section, is that Section 19(a) or (b)? *[Silence]*

SUSPENSION OF SESSION

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

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

It was 5:02 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

The President. The session is resumed.

Senator Magsaysay is recognized.

Senator Magsaysay. Mr. President, owing to some inconsistencies, maybe the gentleman from Cebu will allow the sponsor to have the staff go through this to correct certain inconsistencies. Or even better yet, since this is a very important measure, for the gentleman to assist, since being the Chairman of the Committee on Agriculture, he is very much attuned to the needs of the department and the industry in crafting some of the provisions.

Senator Osmena (S). I thank the gentleman for that, Mr. President. That is very kind, but the wording of Section 20 is really according to the WTO. We cannot change it. What I am saying is that under WTO rules, we cannot take advantage of it anymore kasi nagkaroon na tayo ng import surges.

But I find nothing wrong with Section 20 because this is in accordance with the WTO Special Safeguard Measure. For example, let me read it into the *Record*, Mr. President, the import surge for sugar: for 1997 our imports amounted to 21,682,259 kgs.; for 1998 it jumped five times to 101,557,743 kgs. and for 1999 it even went higher to 135,417,000 kgs. So, if we are to take the average of these three years here, mataas na ho. If we had been allowed to take 1997, 1996 and 1995, yes, I would admit it would afford our producers the measure of protection that was the intent

of the Special Safeguard bill. But since we are a little bit too late in considering this bill then, what I maintain, Mr. President, is hindi talaga makakatulong in many of our critical domestic agricultural products. The protection that is offered by the Special Safeguard for agricultural products. It cannot really help, that is why I am looking for other ways to compensate.

Senator Magsaysay. I understand, Mr. President.

Senator Osmena (S). Now, Mr. President, another point.

This representation would like to suggest, with the permission of the distinguished sponsor, that aside from including the imposition of quantitative restrictions under Section 8, under Provisional Measures, we revisit also the Tariff and Customs Code.

For example, Mr. President, let me ask the distinguished sponsor: What is the out-quota tariff for sugar?

Senator Magsaysay. Presently, 65%, Mr. President.

Senator Osmena (S). That is 65% for non-AFTA. What is it for AFTA, 50%?

Senator Magsaysay. That is for non-AFTA, 65%.

Senator Osmena (S). And for AFTA, 50%.

Let us say that the Secretary of the Department of Agriculture determines that there is an import surge which could cause or is threatening to cause serious injury to domestic producers and he uses the tariffication provision to implement a safeguard measure.

By how much can we increase the out-quota tariff for AFTA members because our biggest suppliers will be Thailand, in the case of sugar? By how much can it be increased?

Senator Magsaysay. For AFTA, I understand, it is up to one-third of the existing. So, if it is 50%, we get one-third for the special safeguard. That is about 17 1/3%.

Senator Osmena (S). It is 17 1/3%. What about for the general safeguards?

Senator Magsaysay. This can be up to 100%.

Senator Osmena (S). Let me be liberal. Let us say, 100%.

Senator Magsaysay. If it is 100% of the 65%, so, another 65% or a total of 130%.

Senator Osmena (S). May we know from the sponsor what the world market price for sugar today is? Let us use sugar No. 11 on the Chicago Futures Exchange.

Senator Magsaysay. My staff is still looking for it. Maybe the gentleman can tell us.

Senator Osmena. It is about \$0.07 per pound.

Senator Magsaysay. All right.

Senator Osmena. So, 50% tariff on P0.07--let us forget cargo and freight just for purposes of simplification--is about P0.035 tariff.

The Philippine cost of production is P0.19 a pound. Even if we increase the P0.035 tariff by 100% to P0.07, the landed cost before taking into consideration the freight, insurance, and handling would be about P0.14.

Now, in the gentleman's opinion, would that be enough to protect our local sugar producer?

Senator Magsaysay. I do not think so, Mr. President.

Senator Osmena (S). That is why perhaps we can also include, with the permission of the distinguished sponsor, an additional paragraph or provision under Section 8 which would remove the maximum level of 100% tariff rate which is provided in Section 401A of our Tariff and Customs Code.

Because what we did in the Tariff and Customs Code is to limit increases in tariff to 100%. But sometimes, I believe, in special instances, we need more than 100%.

So, would the gentleman be open to considering favorably an amendment, during the period of amendments, a provision for removing the limitation?

Senator Magsaysay. I will accept that, Mr. President.

Senator Osmena (S). Thank you, Mr. President.

Senator Magsaysay. Due to the graphic example that the gentleman mentioned about the tariff of P0.035 even if we increase it--the cost of sugar worldwide is P0.07 per pound plus the tariff of even doubled to P0.07--it is still way below the P0.19 of our own local production cost.

Senator Osmena (S). As a matter of fact, Mr. President, just to repeat the information that this representation offered the other day, the equivalent duty on sugar imports charged by the United States is a specific tax of P0.16 a pound.

Wala silang percent doon. Specific tax ang ginagamit. In Japan naman, 300% ad valorem tax in sugar. But here we are, a poor country, we are charging only 50% ad valorem tax on out-quota importations.

Senator Magsaysay. We will have to correct that.

Senator Osmeña (S). Thank you, Mr. President.

Senator Magsaysay. Because the industry is so important socially and economically, we cannot do less than try to protect that situation to give them, at least, temporarily, their competitive advantage.

Senator Osmeña (S). Another point I would like to make in the argument for quantitative restrictions as a professional safeguard. In the sugar industry, for example, or in the chicken industry--and this representation, by the way, stands corrected in having made the assertion that Administrative Order No. 16 was a quantitative restriction. It is not--the Secretary of Agriculture wisely reverted to the use of sanitary and phytosanitary measures in much the same way that Australia is using that tool against the Philippines, or Philippine agricultural imports. America also uses it against us.

But in any case, what I was trying to say is that after we will have used up our sanitary and phytosanitary measures against U.S. imports, the Secretary of Agriculture will have no more weapon to use because America's products meet our sanitary and phytosanitary standards. It was just that in the implementation of the chicken imports, they were allowing the traders and the importers and the integrators and the users and consumers to first import the chicken leg quarters into the Philippines and then go to the DA to apply

for a VQC, which is a Veterinary Quarantine Clearance. And now Mr. Angara says that importers will have to apply for VQCs before they ship the chicken out of the United States. But since U.S. chickens more than meet the sanitary and phytosanitary standards we have, I think this is a measure that is only good for three or four months. Then after that, the flood of chickens will start coming in again, Mr. President.

So I apologize to the Secretary of Agriculture for having called AO No. 16 a quantitative restriction. It was an SPS restriction.

Mr. President, going back to my earlier question, can the good gentleman tell us what would happen, for example, if suddenly there is a legitimate import surge in chicken, with VQCS or sugar imports, and all that the Secretary of Agriculture is allowed to do to implement a provisional safeguard measure is increased tariffication?

Senator Magsaysay. The fact that the limit is up to 100% does not mean that we will have bridged the level of competitiveness of our local industry. So maybe he will have to revert, as an ultimate alternative, to a quantitative volume restriction.

Senator Osmeña (S). Even for provisional.

Senator Magsaysay. Yes, it could be.

Senator Osmeña (S). Yes, sugar, for example, suffers a long season, and the shortage of sugar since it is only harvestable once a year, comes during the lean months from June, July, August and September. And if the Secretary cannot move right away for importations made in June, July, August and September, it would be useless to go through that long process to establish whether there has already been injury because it will have caused the injury already and it would be too late to correct it.

In any case, Mr. President, going to another matter, would the good gentleman consider the--Let me refer to page 4, Section 6, lines 14 to 16, which reads:

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

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Would the sponsor consider an amendment that would require the Secretary to initiate action upon the request of the President, or a resolution of the House or the Senate Committee on Agriculture, or House or Senate Committee on Trade and Commerce?

Senator Magsaysay. I do not think that is.... I think this can be to strengthen and to make it more responsive, time-wise. I think that is in the House version and I have no objection if that is going to be introduced here.

Senator Osmena (S). I thank the gentleman for that, Mr. President.

Senator Magsaysay. Actually, that is in the House version, but earlier, we have thought that since the Secretary is the appointee of the President and since there will be a lot of issues on this and for us to go back to the legislature and trigger this, this will make it appear, as far as the Secretary is concerned, that he is not responsive. After all, the President can just order his Cabinet member to do this with dispatch. But if the gentleman feels that this should be for emphasis and for the alternative of the industry, if the Secretary is not responsive, then I have no objection of he introduces such a proposal.

Senator Osmena (S). Mr. President, I agree with the observation of the distinguished sponsor that upon the request of the President, it might really be superfluous because the Secretary is the alter ego of the President and he will take directions from the President. And this particular provision does not pertain to the incumbent Secretary of Agriculture because we know how responsive he has been to the plight of the local producers.

This provision takes into consideration that we may in the future have a Secretary of Agriculture who will not be as responsive. And since we all know that a resolution that passes the Senate or the House goes through a process of hearings, deliberations on the Floor which may even take time, perhaps, this is just a safeguard for farmer groups to allow their grievances to be addressed whoever the Secretary of Agriculture in the future might be if that Secretary is not as responsive as we would want him to be.

Senator Magsaysay. I understand, Mr. President. We have no objection if that approach would be introduced.

Senator Osmena (S). After line 24, on page 5, Mr. President, between lines 21 to 24, still on Section 6 on

page one. I am sorry, I guess I am using a different copy, this is my internal copy. I should not have done that.

But is the Secretary required to extend legal, technical or other assistance to domestic producers whose organizations are not financially equipped to deal with such legal actions?

Senator Magsaysay. What section again and line?

Senator Osmena (S). This is a new paragraph that this representation is proposing, still under Section 6.

If there are groups of poor farmers, for example, let us say, coffee farmers who may want to initiate action on general or special safeguards but who do not have the funds to hire the lawyers and go through a process, would the sponsor have any objection if the Secretary be given the discretion to extend legal, technical and other assistance to concerned domestic producers and their organizations at the discretion of the Secretary, of course?

Senator Magsaysay. I believe that the Secretary must help even financially or offer legal assistance and all the necessary support, especially if these are sectors that do not have the corporate heft. I think that is the objective of our governance, Mr. President. And if there is any introduction of such to make it clear, I will accept that proposal.

Senator Osmeña (S). I would like to thank the sponsor for that answer, Mr. President.

Senator Magsaysay. According to the staff of the Department of Agriculture, the department is already extending legal assistance to indigent farmers through the ERAP legal fund. Of course, this is an acceptable initiative.

Senator Osmeña (S). I would like to thank the sponsor for that, Mr. President.

Mr. President, in Section 12, *Adoption of Definitive General Safeguard Measures*, there is mention of a "tariff quota rate." May we be elucidated on what a "tariff quota rate" means?

Senator Magsaysay. Is the gentleman on Section 12?

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Senator Osmeña (S). Section 12.

Senator Magsaysay. What line, Mr. President?

Senator Osmeña (S). I guess the sixth line, second paragraph. It reads:

Upon its positive final determination, the Commission shall recommend to the Secretary an appropriate general safeguard measure, in the form of either a tariff adjustment, increase in tariff quota rate and/or reduction in the market access commitments or a quantitative import restriction.

How are we to understand the meaning of the phrase "tariff quota rate?"

SUSPENSION OF SESSION

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

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

It was 5:22 p.m.

RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña (S). Mr. President.

The President. Sen. Sergio R. Osmeña III is recognized.

Senator Osmeña (S). Mr. President, there is a request from the distinguished Senator from Bicol if we might suspend the interpellations for a few short minutes to consider the Absentee Voting bill.

Senator Magsaysay. I think what the Senator from Bicol wants to do for 15 minutes is equally important. So I have no objection, Mr. President. I think the Senator from Bicol wants to sponsor his Absentee Voting bill.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Sotto. Mr. President, with the concurrence of the two gentlemen, may we suspend consideration of Senate Bill No. 2033 under Committee Report No. 230.

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

BILL ON SECOND READING

S. No. 1746 - Absentee Voting By Qualified
Filipinos Abroad
(Continuation)

Senator Sotto. At this point, Mr. President, I move that we resume consideration of Senate Bill No. 1746 as reported under Committee Report No. 75.

The President. Is there any objection? [Silence]
There being none, resumption of consideration of Senate Bill No. 1746 is now in order.

Senator Sotto. The parliamentary status, Mr. President, is that we are in the period of interpellations. I move that the Chair recognize the principal sponsor and author, Sen. Raul S. Roco, and Sen. Renato L. Compañero Cayetano for interpellation.

SUSPENSION OF SESSION

In the meantime, while Senator Roco is out of the Hall momentarily, I move that we suspend the session for one minute.

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

It was 5:25 p.m.

RESUMPTION OF SESSION

At 5:26 p.m., the session was resumed.

The President. The session is resumed.

Sen. Raul S. Roco is recognized, and Sen. Renato L. Compañero Cayetano is likewise recognized.

Senator Roco. Thank you, Mr. President.

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is up. With the permission of the Chair and the sponsor, may I just postpone my interpellation to another day?

Senator Roco. If we may continue tomorrow or whatever time we are called.

Senator Cayetano. Thank you, Mr. President.

SUSPENSION OF SESSION

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

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

It was 5:49 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

BILL ON SECOND READING

S. No. 2033 - Safeguard Measures Act of 2000
(Continuation)

Senator Sotto. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? *[Silence]*. There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Sotto. Mr. President, I move that Sen. Ramon B. Magsaysay Jr. and Sen. Sergio R. Osmena III be recognized.

The President. Sen. Ramon B. Magsaysay Jr. and Sen. Sergio R. Osmena III are recognized.

Senator Osmena (S). Mr. President, will the kind sponsor yield for a few more questions?

Senator Magsaysay. Yes, Mr. President.

Senator Osmena (S). Mr. President, before we suspended the interpellation 30 minutes ago--but defined by Senator Roco as a senatorial 10 minutes--we asked for the definition of "tariff quota rate" as used in Section 12.

Senator Magsaysay. Actually, there is a typographical error here, Mr. President. It should be "tariff rate quota" and not "tariff quota rate." The "tariff rate quota" is the minimum access volume or MAV. This means that based on detariffed commodity, there is a volume commitment and the MAV holders--those importers who are importing within the quota importation--will enjoy in-quota tariff rates, which are lower than out-quota rates.

To set an example, on the matter of imported chicken, let us assume that 18,000 metric tons is the MAV. Within the MAV, the in-quota rate is 45% for chicken cuts, while the out-quota rate is 50% or only 5% over the 45% for chicken cuts. That is the difference and the definition of "tariff rate quota."

Senator Osmena (S). I thank the distinguished sponsor for that answer, Mr. President. Let us go a little further.

How is a tariff rate quota going to help the farmer as used in Section 12 which reads:

...the Commission shall recommend to the Secretary appropriate general safeguard measure, in the form of either a tariff adjustment, increase in tariff quota rate and/or reduction in the market access commitments or a quantitative import restriction.

How does an increase in the tariff rate quota on an article help the farmer or the local producer?

Senator Magsaysay. As mentioned earlier, Mr. President, this can be increased by as much as 100%.

Senator Osmena (S). No, Mr. President. We are talking now about a quota. We are not talking about a tariff rate.

Earlier, I had asked for a definition as used in this bill of "tariff quota rate." That refers to rates. But a "tariff rate quota" refers to quotas.

Senator Magsaysay. Yes, Mr. President. That is the MAV.

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Senator Osmena (S). Does this mean that the Secretary will now be empowered to lower the MAV? Because how can an increase in the MAV help the producers since the MAV enjoys preferential tariffs?

Senator Magsaysay. That is a fact, Mr. President. The Secretary can lower the MAV.

Senator Osmena (S). The Secretary can reduce our MAV, our Minimum Access Volume commitments?

SUSPENSION OF SESSION

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

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

It was 5:55 p.m.

RESUMPTION OF SESSION

At 5:57 p.m. the session was resumed.

The President. The session is resumed.

Senator Osmena (S). Mr. President, I have a question on Minimum Access Volume.

Senator Magsaysay. In Section 12—maybe to help us reply to the gentleman's questions—lines 5 and 6, it says: "...appropriate general safeguard measure, in the form of either a tariff adjustment, increase in tariff quota rate and/or reduction in the market access commitments"—this is the entry of volume-wise, market access commitment—or a quantitative import restriction". So, these are the actions that the Commission can recommend to the Secretary.

Senator Osmena (S). Mr. President, our question was: Can the Secretary now lower the minimum access volumes committed to the WTO? And the answer of the distinguished sponsor was in the affirmative.

Senator Magsaysay. Yes.

Senator Osmena (S). Would the gentleman like to check?

Senator Magsaysay. This is the reply of my staff, Mr. President. Because a reading again on line 6 of Section 12 is "increase in tariff quota rate and/or reduction in the market access commitments or a quantitative import restriction". I would assume that the "market access commitment" is the MAV.

Senator Osmena (S). Therefore, the tariff rate quota refers to, as I said earlier, to an MAV. Now, how does the increase--and I will repeat the question--how can an increase in the minimum access volume help the farmer?

The word used here, Mr. President, is "increase" not a "decrease."

Senator Magsaysay. Reading line 5 means "increase in the tariff rate".

Senator Osmena (S). No, Mr. President, the gentleman changed that. He just said that it was a typographical error. So that it now reads, "tariff rate quota," not "tariff quota rate."

So, if it refers to a "tariff rate quota," it means a quota given to a certain article at a certain rate. How can an increase in that quota help the farmers?

Senator Magsaysay. This is increase in tariff rate.

Senator Osmena (S). Mr. President, if the phrase is "tariff quota rate," I agree "tariff quota" modifies rate. But since the gentleman had corrected or admitted that this is a typographical error and what was meant was the phrase "tariff rate quota", "tariff rate" is now the modifier for the word "quota."

Senator Magsaysay. Mr. President, I stand corrected. This is "increase in tariff rate."

Senator Osmena (S). Mr. President, then that would be repetitious. That is already covered by the first phrase "tariff adjustment."

Senator Magsaysay. In quota tariff rate, within the MAV.

Senator Osmena (S). May I kindly refer the good gentleman to the United States Tariff and Customs Code

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because it uses "tariff rate quota." I just would like, for the record, to have "tariff rate quota" defined.

Senator Magsaysay. Mr. President, my cosponsor and I would like to have this period of interpellations be suspended because there are several provisions that have to be further....in light of the interpellations....

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized, with the permission of the two gentlemen on the Floor.

Senator Enrile. May I state into the *Record* that this representation has nothing to do with the drafting of this bill. And I must say that I am very embarrassed with the way this bill was drafted.

May I request as a cosponsor of this bill that the consideration of this bill be suspended, and that it be referred back to the committee for redrafting.

SUSPENSION OF SESSION

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

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

It was 6:04 p.m.

RESUMPTION OF SESSION

At 6:05 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. Mr. President, after consultation with the parties, I move that we suspend consideration of Senate Bill No. 2033.

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

TUESDAY, MAY 30, 2000 P.M.

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RESUMPTION OF SESSION

At 3:57 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 2000

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2000.

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

BILL ON SECOND READING

S. No. 2033--Safeguard Measure Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? [Silence]
There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, I ask that the distinguished sponsor, Sen. Ramon B. Magsaysay, be recognized, and to continue his interpellation, the Minority Leader. But prior to that, I understand the cosponsor, Sen. Juan Ponce Enrile, would like to make a statement.

The President. Senator Enrile is recognized.

STATEMENT OF SENATOR ENRILE

(To Use The Revised Version of S. No. 2033
as Basis for Debate)

Senator Enrile. Mr. President, in view of what transpired yesterday, and in order to make this measure clearer, we revised the version of Senate Bill No. 2033 to reflect, in fact, the requirements of the pertinent

provision of the World Trade Organization Treaty on General Safeguards and Special Safeguards, and at the same time clarified the intended protection for our domestic industries, both industrial and agricultural.

We have now a new copy of Senate Bill No. 2033 which indicate the proposed revisions so that we can proceed.

The President. Is there any objection to using this version as the basis for debate on this bill?

Senator Magsaysay. Mr. President.

The President. Sen. Ramon Magsaysay Jr. is recognized.

MANIFESTATION OF SENATOR MAGSAYSAY
(To Allow His Cosponsor to Continue Sponsorship of
S. No 2033)

Senator Magsaysay. Due to the statement of my cosponsor, and having just found out this afternoon that in Section 8--which the committee had earlier included as a provision--the so-called "Australian model" has been changed, I would prefer that my cosponsor, Sen. John Enrile, be the one to defend the measure. Because as chairman of the Committee on Trade and Commerce, I would not want that the original provision in Section 8 be changed to include the term "quantitative restrictions."

So, without any prejudice to the original measure and as adjusted by my cosponsor, I will yield the sponsorship to, the chairman of the Committee on Ways and Means because this part of the measure is basically within the jurisdiction of his committee.

Senator Tatad. Mr. President.

The Majority Leader is recognized.

Senator Tatad. Mr. President, with that manifestation and with the consent of the chairman of

Committee on Ways and Means, I ask that Sen. Juan Ponce Enrile be recognized to continue the sponsorship.

The President. Sen. Juan Ponce Enrile is recognized to continue with the sponsorship of the measure. We are now in the period of interpellations.

SUSPENSION OF SESSION

With the permission of the Chamber, the Chair declares a one-minute suspension of the session, if there is no objection. [*There was none.*]

It was 4:02 p.m.

RESUMPTION OF SESSION

At 4:06 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Mr. President, I move that the Secretary read the Additional Reference of Business.

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

The Secretary is directed to read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORT

The Secretary. Committee Report No. 285, submitted by the Committee on Electoral Reform, Suffrage and People's Participation, on Senate Bill No. 2020, introduced by Senator Ople, entitled

AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 7941, OTHERWISE KNOWN AS THE PARTY-LIST SYSTEM ACT

recommending its approval with amendments.

Sponsors: Senators Ople and Roco

The President. To the Calendar for Ordinary Business.

SPECIAL ORDER

Senator Tatad. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 285 on Senate Bill No. 2020, entitled

AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT
NO. 7941, OTHERWISE KNOWN AS THE PARTY-LIST
SYSTEM ACT

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

MOTION OF SENATOR TATAD

(Transfer of Referral of S. No. 1979 from the
Rules Committee to the Local Government Committee)

Senator Tatad. Mr. President, I move that we transfer the referral of Senate Bill No. 1979, which was previously referred to the Committee on Rules, to the Committee on Local Government.

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

Mr. Majority Leader, before the suspension of the session, Sen. Juan Ponce Enrile was on the Floor as sponsor of Senate Bill No. 2033.

Senator Enrile. Mr. President, I am ready.

SUSPENSION OF SESSION

Senator Tatad. I am sorry. Mr. President, I move that we suspend the session for one minute.

[Silence]

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

• It was 4:08 p.m.

RESUMPTION OF SESSION

At 4:10 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. Since we are still reproducing the proposed amendments that are subject of debate, I move that we temporarily suspend consideration of Senate Bill No. 2033.

The President. Is there any objection? [Silence]
There being none, consideration of Senate Bill No. 2033 is hereby suspended.

BILL ON SECOND READING

S. No. 2020--Party-List System Act

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 2020 as reported out under Committee Report No. 285.

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

Consideration of Senate Bill No. 2020 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. 2020, entitled

might in the long run be prejudicial to our own companies that are trying to make a living out of their own products here.

With that, Mr. President, I would like to reserve my right to continue this interpellation at some future time.

Senator Leviste. Thank you, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2041

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2041.

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

SUSPENSION OF SESSION

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

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

It was 4:49 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

BILL ON SECOND READING

S. NO. 2033--Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, we are still in the period of interpellations. I ask that the distinguished cosponsor, the chairman of the Committee on Ways and Means, Sen. Juan Ponce Enrile, be recognized, and to continue his interpellation, Sen. Sergio Osmena III.

The President. Sen. Juan Ponce Enrile and Sen. Sergio Osmena III are recognized.

Senator Osmena (S). Thank you very much, Mr. President.

Will the distinguished sponsor yield for a few questions on the new safeguards measure?

Senator Enrile. Gladly, Mr. President, to the distinguished son of a distinguished father and a very able senator from the great province and City of Cebu.

MOTION OF SENATOR TATAD

(To Use the May 30, 2000 Version of the Bill)

Senator Tatad. Mr. President, before the interpellation, we invited attention to a revised copy of the bill. This has been distributed to the members. I move that we use this for purpose of the debates.

The President. Is there any objection? [Silence] There being none, the revised copy as of May 30, 2000 of Senate Bill No. 2033 will be used as the basis for the debates.

Senator Osmena (S). Mr. President, may we know if the interpellations that this representation made to the

previous sponsor will still stand with regard to this bill?

Senator Enrile. Surely, Mr. President. In fact, some of those points that were raised by the distinguished Senator from Cebu are already covered by this new draft.

Senator Osmena (S). I thank the distinguished sponsor for that.

Mr. President, just some point of clarification. Yesterday, when we suspended interpellation of this particular bill, I was trying to obtain from the sponsor the definition of "tariff-rate quota" as used in Section 11, now page 13 of the bill.

Senator Enrile. "Tariff-rate quota," as I understand it, Mr. President, is actually a portion of our imports that is given a special rate. I think this refers to what we call "minimum access volume."

If we have 100% of imports of a commodity, there is a special portion that is given a preferential rate. We call this "minimum access volume" which is given a lower rate than the rest of the 100%.

For example, in the case of sugar, I think the minimum access volume is 51,000 tons at the rate of 50%. Anything above 51,000 tons is so covered by a higher rate.

Senator Osmena (S). I believe the rate would be lower than that. The rate would be 35%?

Senator Enrile. No, higher.

Senator Osmena (S). Under the MAV?

Senator Enrile. The out quota is 65%, Mr. President.

Senator Osmena (S). The MAV is 50%?

Senator Enrile. Yes, Mr. President.

Senator Osmena (S). All right. The way this is written, Mr. President, it says: "UPON AFFIRMATIVE DETERMINATION OF SERIOUS INJURY...."

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

Senator Osmena (S). Page 13, Section 11, lines 8 to 21. "UPON AFFIRMATIVE DETERMINATION OF SERIOUS INJURY OR THREAT THEREOF, THE COMMISSION SHALL RECOMMEND ANY OF THE FOLLOWING:..." Then Subsection (B). A TARIFF-RATE QUOTA ON THE ARTICLE;"

Now, if a tariff-rate quota is a minimum access volume, how does imposing a minimum access volume protect the farmer?

Senator Enrile. For instance, if we have an import surge on a particular commodity, although this particular commodity has no minimum access volume as of now, as written in the law, then with the present level, we can compress; we can say that a portion of this import will be given the present level of commodity to which we have bound ourselves, and beyond that we impose a higher rate of duty.

Senator Osmena (S). But if we had bound ourselves already, therefore that is a minimum access volume.

Senator Enrile. No, not necessarily.

Senator Osmena (S). What this might imply, Mr. President, is that either the Tariff Commission has the power--because it uses the word "Commission" and I presume this means the Tariff Commission--to lower our maximum....

SUSPENSION OF SESSION

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

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

It was 5:07 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

Sen. Juan Ponce Enrile is recognized.

Senator Enrile. Mr. President, in connection with the question of the distinguished gentleman from Cebu, this subparagraph (B) of Section 11 simply means--according to the concerned agency--that the committed minimum access volume could be reduced to a lower level. I do not know whether we can go to zero but I assume that we can reduce it a little over zero.

Senator Osmena (S). Well, that would be a big help. I am glad to hear that answer, Mr. President, which means that the Filipino farmer will have at least more protection now, especially with regard to those commitments we made, I think, on frozen beef and chicken.

Senator Enrile. Chicken. Poultry.

Senator Osmena (S). Poultry which is about 10 times higher than what was the average import at that time.

Senator Enrile. We made an error which until now has not been corrected.

Senator Osmena (S). And this can hopefully be corrected through this measure. Thank you, Mr. President.

Senator Enrile. But may I add, Mr. President, that in a case where the Philippines does not have any committed minimum access volume but bound itself to lower the duty on a particular commodity over time, if there is

an import surge, then the remedy will be quantitative restrictions (QR).

I think in evaluating the remedies available, we will have to select the best possible remedy that will protect our industries.

Senator Osmeña (S). Thank you for that, Mr. President. Now in Section... Please forgive me, this is the first time I....

Senator Enrile. We are open to possible amendments, if there are any amendments that the distinguished gentleman would like to propose to improve this text here.

Senator Osmeña (S). Mr. President, there is a Remedies Fund that is mentioned in Section 28 of the bill.

Senator Enrile. Are we talking of the four years, eight years, Mr. President?

Senator Osmeña (S). It is now Section 30 of the new bill. *Administrative System Support*, page 33, line 19. It starts with line 17:

....FIFTY PERCENT (50%) OF the revenue collected from these fees and charges shall be set aside in a Remedies Fund which shall be earmarked for the use of these agencies in the implementation of TRADE remedies...

May we know, Mr. President, what trade remedies are envisioned that will be funded by this Remedies Fund?

Senator Enrile. Well, it could be to support any action. For instance, if it is possible to institute an action for the imposition of countervailing duties or antidumping duties or to initiate an effort to convince the exporting country to maintain a voluntary export restraint, and such other similar efforts, Mr. President.

Senator Osmeña (S). So this is envisioned to be spent for legal and administrative remedies.

Senator Enrile. To help our local industries.

Senator Osmeña (S). So this means that at least there will be a fund for hiring lawyers in Washington, D.C. and New York in behalf of the Filipino farmers who cannot afford to hire those lawyers.

Senator Enrile. That is correct, Mr. President.

Senator Osmeña (S). Thank you, Mr. President. What about the other 50%? Will that be included in the Agriculture Competitiveness Enhancement Fund which exists under Republic Act No. 8178?

Senator Enrile. That is correct, Mr. President.

This will be subject to the disposition of Congress in consultation with the agencies concerned.

Senator Osmeña (S). Now, Mr. President, if the first 50%--the 50% that goes to the Remedies Fund--is of such an amount that is over and above what they would need for administrative and legal expenses, where can the balance be spent? Can we earmark that it be spent on behalf of the farmers, like infrastructure or...

Senator Enrile. No question, Mr. President. If the gentleman would submit a proposed amendment to that effect, this representation would gladly accept it for the good of our farmers.

Senator Osmeña (S). Thank you very much for that. I think I have exhausted my interpellation on this bill. I am glad to see the new version. But may I just make a short reservation that since this is the first time I see this bill, I would like to compare it with the old one. If there will be additional questions in my mind, may I ask that I be allowed to continue my interpellation.

Senator Enrile. I would like to reiterate my statement, Mr. President, that the distinguished gentleman is free to introduce amendments at the proper time and we will consider them.

Senator Osmena (S). Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, we would like to thank Senator Osmena for his abbreviated interpellation.

The Minority Leader has reserved the right to interpellate tomorrow.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

In view thereof, I move to suspend consideration of Senate Bill No. 2033.

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

SUSPENSION OF SESSION

Senator Tatad. I move to suspend our session until ten o'clock tomorrow morning.

The President. Is there any objection? [*Silence*] There being none, the session is suspended until ten o'clock tomorrow morning, May 31, 2000.

It was 5:17 p.m.

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BILL ON SECOND READING
S. No. 2033--Safeguard Measures Act
(Continuation)

Mr. President, I move that we now resume consideration of Senate Bill No. 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? [Silence]
There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. We are still in the period of interpellations. I ask that the sponsor, Sen. Juan Ponce Enrile, be recognized, and to continue his interpellations, Sen. Teofisto T. Guingona, Jr.

The President. Sen. Juan Ponce Enrile, the sponsor, and Sen. Teofisto Guingona, Jr. are recognized.

Senator Guingona. Thank you, Mr. President. Will the distinguished sponsor please yield for some questions?

Senator Enrile. How can I deny answering the question of the good-looking and distinguished gentleman from Mindanao, the Minority Leader? Gladly, Mr. President.

Senator Guingona. If that is the kind of compliment, I may not ask any more question. [Laughter]

Senator Enrile. Thank you, Mr. President. That is the purpose of the compliment. [Laughter]

Senator Guingona. Just a few questions. Is the executive department doing monitoring and studies on what agricultural products as well as industrial produce are being affected by import surges?

Senator Enrile. Mr. President, I imagine so because there are two departments in the government that are actually assigned to handle this problem of monitoring for the government--the Department of Agriculture, in the case of agricultural products, and the Department of Trade and Industry in the case of nonagricultural products.

Now, in the case of agricultural products, we must recall the activities of the department officials where they even challenged, I think, the government of Australia with respect to some of our exports to that country as against our imports from that country.

Senator Guingona. Yes. There is a definition of agricultural products in the WTO Agreement.

Senator Enrile. Yes, Mr. President.

Senator Guingona. I would just like to ask what agricultural products are covered by this definition. Everything, except rice, I think.

Senator Enrile. Almost everything, I think, except rice, coconut products, poultry, beef, and the like.

Senator Guingona. Yes.

Senator Enrile. Including eggs, I think.

Senator Guingona. Including eggs, yes. And this goes not only to agricultural products but also to industrial products such as steel, iron....

Senator Enrile. Yes, Mr. President. Almost all the tariff schedules in the Tariff and Customs Code.

Senator Guingona. Yes. Under the bill, there is not only an emergency safeguard measure permanently but also a provisional remedy.

Senator Enrile. Mr. President, we will be deleting the word "emergency" because that term refers only to

special safeguards on agriculture. But when we talk of general safeguards, emergency or no emergency, when there is already a surge of imports and it poses a serious injury to our industries, then we can entertain application for this remedy.

Senator Guingona. These safeguard measures refer to permanent and provisional remedy

Senator Enrile. Yes, Mr. President.

Senator Guingona. And the provisional goes through the same process. In other words, the proposed Cabinet committee which receives the application refers the same to the Tariff Commission.

Senator Enrile. The corresponding Cabinet secretary will perform the function for the provisional remedy.

Senator Guingona. It will not refer to the Commission anymore?

Senator Enrile. No, Mr. President. That is preparatory to the submission of the petition for hearing by the Commission. Precisely, it is called "provisional remedy" because it assumes the urgency of the problem.

Senator Guingona. On page 6 of the bill, the Preliminary Determination is deleted up to page 7.

Senator Enrile. That is Section 7, Mr. President.

Senator Guingona. Yes.

Senator Enrile. But there is a new Section 7 which is found on page 7.

Senator Guingona. Yes, it refers to the Commission.

Senator Enrile. That is investigation already and hearing.

Senator Guingona. So this does not refer to the provisional?

Senator Enrile. No, Mr. President. Not yet. The provisional remedy is found in Section 9, page 11. It used to be Section 8. It is Provisional Measures, not provisional remedy. It says:

In critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports have caused or are threatening to cause serious injury or threat thereof to the domestic industry, the Secretary--

The word "Secretary" here could be either the Secretary of Trade and Industry in the case of nonagricultural products or the Secretary of Agriculture in the case of agricultural products.

--shall immediately issue, through the Secretary of Finance,--

who has jurisdiction over the Bureau of Customs

--a written instruction to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measure.

What are these provisional general safeguard measures? They are covered by the second paragraph. They could be increased duties. Or the Secretary may opt to say, "Well, that is not enough, but we have to use a much more severe provisional remedy. It could be a reduction of the authorized minimum access volume or a QR."

Senator Guingona. I would just like to know, for clarity, what is this "preliminary determination"?

Senator Enrile. That is a determination by the Secretary on the basis of the petition, plus the attached documents supporting the petition. On the basis of these

documents, we have to study it. If these documents would impress upon him that indeed there is a reasonable conclusion in his mind that an import surge exists and that this import surge is causing or threatens to cause serious injury to a given industry in the country and he must act otherwise the damage will be irreparable, he will then take the action of imposing provisional measures.

Senator Guingona. No notice? No hearing?

Senator Enrile. No, Mr. President. This is on his part.

Senator Guingona. Discretionary? Total discretion?

Senator Enrile. Actually, Mr. President, this provision is a copy, a reproduction of the treaty agreement.

Senator Guingona. Yes, but the treaty agreement is only for tariff, not for quantitative restrictions.

Senator Enrile. Mr. President, that is correct.

Senator Guingona. I am in favor in principle of the measure because it will protect our industries and our farms. But I just want to be sure that there is no procedural lapse.

Senator Enrile. That is a matter of interpretation, Mr. President. Precisely, this provision has been interpreted by various safeguard legislations of various countries. Some countries opted to be more open than others. This representation is following the more open, transparent position.

Senator Guingona. Yes, but it will be totally discretionary on the part of the Secretary.

Senator Enrile. Yes, Mr. President. It cannot be arbitrary; it cannot be whimsical. It must be based on substantial evidence presented to him as a part of the

petition, whoever is the petitioner or applicant for the application of a general safeguard.

Senator Guingona. Would this involve a specific import?

Supposing it were a dressed chicken? Chicken would involve various parts, say, legs.

Senator Enrile. They will all come under "poultry." I think that is the general classification.

Senator Guingona. How about chicken skin? Iyong balat.

Senator Enrile. That is still poultry, Mr. President, including chicken legs and chicken feathers, not chicks.

Senator Guingona. Not "chicks." [Laughter] Would the discretion of the Secretary, therefore, include a provisional ban on all parts of the chicken?

Senator Enrile. Yes, Mr. President. He can say, "For chicken and chicken parts, we maintain this quota."

We are adopting the same nomenclature that we have adopted in the case of antidumping, in the case of countervailing duty. These are companion measures intended precisely as an escape clause or protection for importing countries in order that they can protect themselves from various types of international trading assaults into their markets that would affect their industries.

Senator Guingona. How long would the preliminary provisional measure last?

Senator Enrile. For not more than 200 days, Mr. President.

Senator Guingona. Not more than 200 days. In the case of provisional measure, the measure would either be a tariff change increase or a quantitative restriction?

Senator Enrile. That is correct, Mr. President. I think if the distinguished gentleman will study the time schedule involved in the hearing of the Commission, it will be within that 200 days.

Senator Guingona. No. This is no longer the Commission. This is the Secretary himself.

Senator Enrile. No, the Commission, because after the Secretary has issued the provisional measure, he is also conducting the process to bring this to the Commission for hearing

Senator Guingona. No. Is the action or intended measure already implemented before he...

Senator Enrile. Yes, Mr. President.

Senator Guingona. So how long will this last?

Senator Enrile. It will last for 200 days, Mr. President.

Senator Guingona. Even if he does not bring it to the Commission?

Senator Enrile. No, he has to bring it to the Commission for hearing, Mr. President. It is mandatory for him to send the material to the Commission because, to him, there is a prima facie case already.

Senator Guingona. All right, there is a prima facie case. The tariff is increased and the importer is notified and is given the opportunity to file a cash bond, is he not?

Senator Enrile. The provisional remedy, Mr. President, is increased tariff, not cash bond.

Senator Guingona. Increased tariff, therefore.

Senator Enrile. Yes, it is a cash bond, but that is actually the tariff which will be refunded.

Senator Guingona. Precisely.

Senator Enrile. Yes, Mr. President.

Senator Guingona. In other words, there is notice now to the importer?

Senator Enrile. That is correct, Mr. President. This is only for purposes of the provisional measure.

Senator Guingona. A provisional measure and he puts up a cash bond before the tariff increase becomes effective.

Senator Enrile. Mr. President, the cash bond is, in effect, the tariff so that he can withdraw the goods.

Senator Guingona. Let us say that the tariff is 10% and it is increased to 15% by the Secretary.

Senator Enrile. There is no limit. But assuming that the distinguished gentleman is correct, if we are crazy to just increase it by 50%.

Senator Guingona. No, it is just an example. How much cash bond would the....

Senator Enrile. The full amount of the tariff, Mr. President.

Senator Guingona. Is it not just the difference?

Senator Enrile. No, Mr. President, the full amount because the additional tariff is precisely the protective measure. The 10% is the ordinary existing tariff if we do not apply a provisional remedy.

Senator Guingona. Yes. But if the finding eventually of the Commission is that the injuries caused by high power electric rates or....

Senator Enrile. Then in that case, Mr. President, if there is no causal link between the import surge and the serious injury to the industry, then the government will say, "We have released the goods, we return the money."

Senator Guingona. In the case of tariff changes, there is a protective remedy as far as the importer is concerned.

Senator Enrile. That is correct, Mr. President.

Senator Guingona. What is the remedy in the case of quantitative restriction?

Senator Enrile. In that case, if, let us say, 100 tons of chicken parts enter the country, and that, given the normal importation, this shows an import surge, then we say: "Beginning this date, chicken and chicken parts can only enter the country at so many tons." That is prospective. Those that are in the country at the time of the imposition of the quantitative restriction will not be affected. That is my understanding of the operation of this law.

Senator Guingona. Quantitative restriction.

Senator Enrile. Yes, Mr. President.

Senator Guingona. And only so many tons can be imported.

Senator Enrile. That is correct, Mr. President. That is why it is quantitative restriction.

Senator Guingona. Let us go to sugar, for example..

The Secretary of Agriculture asks that there be a quantitative restriction imposed.

Senator Enrile. Yes, Mr. President. In the case of sugar, for instance, we can reduce the minimum access volume to one kilo.

Senator Guingona. Well, that is an example. But there would also be allowed importations up to a certain minimum or maximum level.

Senator Enrile. We will determine the tonnage that will be allowed to enter taking into account the domestic supply.

Senator Guingona. Yes. But the Secretary of Agriculture is the one who approves the importation of sugar. Is there no conflict of..

Senator Enrile. Hanky-panky? No, Mr. President.

Senator Guingona. No, conflict of interest.

Senator Enrile. None, Mr. President.

Senator Guingona. He is interested in stopping or imposing quantitative restrictions and, at the same time, he is the person who approves the importation of sugar importers.

Senator Enrile. Mr. President, first of all, the Secretary of Agriculture is supposed to know the supply-and-demand condition of a particular agricultural product in the country. He knows the actual supply level in the country at any given time. He knows the demand for that product on a weekly, monthly, quarterly, semestral or annual basis.

If he feels that the present level of supply is such that it is adequate to meet the demand at a given acceptable price and there is an upsurge of importation that would really depress the price in the market to the detriment of our farmers and somebody will file an application for a general safeguard measure to be

applied, the Secretary of Agriculture, after reading the documents and knowing the facts at his fingertips,-- because that is supposed to be what he is as a Cabinet member dealing with this problem--he can say: "We can only allow an importation of an x quantity of sugar or none at all."

Senator Tatad. Mr. President, with the indulgence of the two gentlemen on the Floor, I just want to put on record that the Secretary of Agriculture is listening with great appreciation to this debate right now.
[Laughter]

Senator Enrile. Why do we not ask him to sit here.

The presence of the Secretary of Agriculture, Sec. Edgardo J. Angara, was acknowledged by the Chair.

The President. May we invite the Secretary of Agriculture, the former President of the Chamber, to join us in the Hall.

The gentlemen on the Floor may proceed. Is the Minority Leader still insisting on his interpellation?
[Laughter]

Senator Guingona. Just a little, Mr. President.

The President. All right. Just a little.

Senator Enrile. In aid of notoriety, Mr. President.
[Laughter]

Senator Guingona. Mr. President, all I was asking for was, is there no conflict of interest between him and...?

Senator Enrile. There is none, Mr. President. In fact, he is performing his job.

Senator Guingona. Yes, I know. But, theoretically,...

Senator Enrile. None, Mr. President. In fact...

Senator Guingona. Prescinding from his character...

Senator Enrile. He is mandated to protect our local farmers.

Senator Guingona. That is correct. But at the same time, if the Secretary of Agriculture were now changed to somebody else and he was the one who put up a quantitative restriction...

Senator Enrile. Then we will file an antigraft case against him, Mr. President, for dereliction of duty.

Senator Guingona. In the same manner, the Secretary of Trade and Industry is in charge of promoting the steel industry and at the same time he could impose quantitative restrictions and allow the importation of a certain amount.

Senator Enrile. The same, Mr. President. What the Secretary of Agriculture can do in the case of agricultural products, the Secretary of Trade and Industry can do likewise if he is dedicated in protecting our local manufacturing and service sectors.

Senator Guingona. I am in favor of having this quantitative restriction, but I am ...

Senator Enrile. Then why is the distinguished gentleman so insistent in asking questions?

Senator Guingona. Because I would like to plug the abuses, the possible abuses. When we have the quantitative restriction, that means the opportunity of having some cronies for lies to issue--opportunities for them to be able to import. And this is one of the things that were experienced during the import control days.

Senator Enrile. The gentleman should mind that there is a third party watching us, not only one but two: the exporting country to Philippines and the WTO--whether

the quantitative restriction level that we establish is really reasonable.

Senator Guingona. So, this has to be studied by the Commission after the imposition of the provisional measure.

Senator Enrile. In fact, Mr. President, it will not take time for the Secretary to go over the documents. He can dictate the order and then at the same time tell the clerk to prepare an endorsement of the whole record to the Commission with the instruction to conduct hearings. That is the process.

Senator Guingona. Thank you, Mr. President.

During the initial debates, we heard the distinguished sponsor say that quantitative restriction was not embodied in the WTO.

Senator Enrile. I changed my mind because I have studied it further, Mr. President. I found out that even Mexico and Panama could do it. If they can do it, why can the Philippines not do it?

Senator Guingona. That is correct. The officials of the United States are doing it; and they have not even ratified the WTO. They did it through legislation and they are the ones violating it. So, why should we be very timid and protective?

Senator Enrile. I think we can argue our position on this, Mr. President.

The United States has done it. We simply write this into our law but it does not mean that we will use it immediately. We can probably opt to use the tariff instrument as a first option. If that is not enough, then we can use quantitative restrictions because the provision of the WTO uses the word "should" rather than the mandatory word "shall." So, it opens a wide area of discretion in legal grafting.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. With the kind indulgence of the distinguished gentlemen, just a point of information.

Quantitative restrictions are allowed under the WTO. Under Article XIX of GATT and Article II of the *Agreement on Safeguards*, quantitative restrictions are allowed.

Senator Guingona. Yes. Not only that. I have been convinced by the distinguished sponsor. As I said, I agreed even before. I just wanted to clarify now.

Senator Enrile. I would like to take this position, Mr. President, that the Majority Leader is correct, but those sections deal with the recommendations of the hearing body after the establishment of a serious injury. But I think the position that whatever is a possible remedy, after we have found a serious injury situation, should be allowed as a provisional measure to be exercised by the Secretary concerned. Because, precisely, the purpose of all these is to protect domestic industries from injuries, serious or material, arising from our commitments under the treaty of the World Trade Organization.

Senator Guingona. Can we totally ban an imported good?

Senator Enrile. The duration of the QRs for General Safeguard Measures is initially four years, extendible for another four years depending upon the circumstance. We must justify the continuations for a total of eight years, plus two for the developing countries. So, a total of 10 years for a developing country like the Philippines.

Senator Guingona. But totally banned?

Senator Enrile. Not totally banned. I think we just give these countries a little leeway. The *de minimis* import will not hurt us anymore at that point.

Senator Guingona. We can also ban smuggling.

Senator Enrile. Well, I think so, why not?

Senator Guingona. It is already banned, Mr. President.

Senator Enrile. Mr. President, smuggling is a big industry.

Senator Guingona. Yes. We have to go through this with open eyes. I am sure the distinguished sponsor has thought out retaliatory measures by the importing countries.

Senator Enrile. Mr. President, these countries cannot take a retaliatory measure just like that. The complaining members of the WTO who will be hurt or who will be affected by our measure will have to use the dispute settlement mechanism of the WTO. The complaining members have to bring us there and then we will discuss the matter. It is there where we will discuss whether we are correct, or the complaining members are correct, or we can come into a consultation and arrive at a compromise.

Senator Guingona. If the importation at issue is dressed chicken.

Senator Enrile. Dressed chicken?

Senator Guingona. Yes.

Senator Enrile. Why is the gentleman always fond of dressed chicken, Mr. President?

Senator Guingona. Because of the chicks.
[Laughter]

Can the exporting country take a similar step of a possible remedy, which is allowed under the WTO, on a product that is not agricultural, or is agricultural but of a different kind? Let us take carrageenan.

Senator Enrile. They cannot retaliate against us immediately because, as I said, they have to bring us to a dispute settlement mechanism to raise their complaint, and that is the dispute settlement body of the WTO. And they will, just like that, go there and raise an issue against the measure and we have taken. The WTO will notify us and we will be compelled to go to that dispute settlement body and litigate the matter.

Senator Guingona. Supposing that after the Secretary of Agriculture has implemented the safeguards measures, the Commission does not uphold his findings, what happens?

Senator Enrile. We will return the money.

Senator Guingona. That goes through all the way to the President.

Senator Enrile. That is the present draft, but there is a request for an amendment later on.

Senator Guingona. Mr. President, I have many other questions, but in view of the presence of the Secretary of Agriculture....

Senator Enrile. I know, Mr. President, that the gentleman loves his farmers in Mindanao.

Senator Guingona. That is right, Mr. President.

Senator Enrile. Specially the people of Bukidnon and Misamis Oriental.

Senator Guingona. Yes, Mr. President.

Senator Enrile. And I am sure that the gentleman's heart is for them.

Senator Guingona. Yes. That is why I am in favor of this bill and for the quantitative restrictions.

Senator Enrile. And the gentleman is going to stop his interpellations?

Senator Guingona. Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. We would like to thank the Minority Leader for abbreviating his interpellation. I ask that the other gentleman from Mindanao, Sen. Aquilino Q. Pimentel Jr., be recognized for one or two questions.

The President. Sen. Aquilino Q. Pimentel Jr. is recognized.

Senator Enrile. I would like to thank the Minority Leader.

Senator Pimentel. Thank you, Mr. President. But for the record, I am not the other gentleman from Mindanao. I am Nene Pimentel from Mindanao.

Senator Enrile. The federalist from Mindanao.

Senator Pimentel. Will the gentleman kindly yield for a very few questions?

Senator Enrile. Gladly, Mr. President.

Senator Tatad. We move to withdraw that phrase from the record, Mr. President. He is the first gentleman from Mindanao.

Senator Pimentel. Mr. President, my principal concern really in this measure is not that it is not good for our people, but it is being subjected to a lot of misinterpretations. Meaning to say, we put up quantitative restrictions, or nontariff barriers, or any

other kind of obstacle for the entry of certain products. The facile argument is, we are trying to deny our people cheaper goods.

Senator Enrile. That is correct, Mr. President.

Senator Pimentel. That is the usual argument. So, how do we overcome that kind of argument, Mr. President?

Senator Enrile. That is why we will have a hearing by the Commission which is technically competent to handle this and consider the supply-demand levels in the country, especially the pricing of the commodities, so that it will not hurt our consumers. Because if the demand has increased, although in absolute terms, the import for this particular type of commodity has increased, then we ought not to take any safeguard measure because the level of consumption has increased and the price in the market has not changed radically to the detriment of our farmers. These are things which must be taken into account in the hearing.

Senator Pimentel. But the hearing will come, to my understanding, after there is a consideration of a serious injury....

Senator Enrile. That is correct, Mr. President.

Senator Pimentel. That will be inflicted upon....

Senator Enrile. No. When the matter is actually endorsed to the Commission for hearing which will determine whether there is a serious injury.

Senator Pimentel. Who, therefore, initiates that kind of an action, Mr. President?

Senator Enrile. An interested party. Normally, it is an industry or an association of industries. Under the present draft of the measure, Mr. President, it could be the Secretary concerned, *motu proprio*, it could be even a member of any committee of either House, and labor groups. Because when we talk of an industry here, in my

humble interpretation, we are not just talking of the owners, the corporate body or group of capitalists owning the business; we include the workers, we include the suppliers of these industries, and so forth and so on.

Senator Pimentel. How long will that process last, Mr. President. What is the total length from the filing of the cases all the way to decision--180 days?

Senator Enrile. I think the hearing must be completed in 60 days, Mr. President.

Senator Pimentel. From filing?

SUSPENSION OF SESSION

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

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

It was 5:50 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

Senator Enrile is recognized.

Senator Enrile. On page 10 of the current draft which incidentally was approved by this Chamber, Mr. President, to be the draft of the bill on this issue, lines 8 to 10 state: "THE INVESTIGATION SHALL BE TERMINATED BY THE COMMISSION WITHIN 60 DAYS FROM RECEIPT OF THE RECORDS OF THE CASE."

Senator Pimentel. And during the 60-day period, all the relevant factors about the impact on the economy, pricing and all that will be taken into account.

Senator Enrile. That is correct, Mr. President.

Senator Pimentel. Finally, Mr. President, I would like to ask the gentleman: What is meant by the term "annual domestic consumption" in Section 20?

Senator Enrile. "Annual domestic consumption" is the statistical material, Mr. President, which tells us how much is the total consumption of the country for that particular product on an annual basis.

Senator Pimentel. Would the gentleman have an idea how this is determined? Is there any specific formula to be followed?

Senator Enrile. Well, this is computed on a per capita basis by the...

Senator Pimentel. Probably, by the NEDA or....

Senator Enrile. By the Department of Agriculture in the case of agricultural products, and I think, by the Department of Trade and Industry, or maybe the agency concerned with the preparation of statistics, Mr. President.

Senator Pimentel. Thank you, Mr. President. The gentleman has my full support.

Senator Enrile. Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Thank you very much, Mr. President. There are no further interpellations, but I wonder if I could just ask one clarificatory question of the distinguished sponsor.

Senator Pimentel. Gladly, Mr. President.

Senator Tatad. Mr. President. the bill speaks of import surges. This is not defined in the bill but I believe we understand this well enough. But my understanding is that even without the surge, if there is an increase of import vis-a-vis the level of domestic production, we may need to have a special safeguard.

Let me illustrate. For instance, if we are producing 9,000 units of a particular product and we have an import of 1,000 units at a particular time, and after the lapse of a certain period the 9,000 goes down to 4,000 and our imports go down to 800 units, we would still have an increase in terms of proportion. And that would still necessitate protection by means of safeguards.

Senator Enrile. That is correct, Mr. President, because if the gentleman will notice, Section 5 speaks of importation of goods, whether absolute or relative to domestic production.

Senator Tatad. Yes--relative.

Senator Enrile. So, if the importation is constant but because of some factors there is a reduction in demand in the country, the share of the imported portion of one's total supply, compared to the domestic production, increases in relative terms.

Senator Tatad. So it is possible....

Senator Enrile. Unlike in a situation where one has a constant production level and a constant demand level in the country and there is an increase in absolute terms of one's imports for that product.

Senator Tatad. So it is possible to propose some amendments on page 1, just to improve the precision of the work.

Senator Enrile. Gladly, Mr. President.

Senator Tatad. Another point, Mr. President.

While we say that in looking at the importation we should not look at the source, there is a provision in the Agreement on Safeguards that importation from developing countries is not to be treated in the same manner as importation from developed countries unless that importation exceeds 3% of the product coming in.

Senator Enrile. That is correct, Mr. President.

Senator Tatad. Is that sufficiently covered in the bill?

Senator Enrile. Mr. President, we incorporated actually the provision of Article IX on safeguards which says: "A general safeguard measure shall not be applied to a product originating from a developing country if its share of total imports of the product is less than three percent (3%): Provided, however, That developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total imports," et cetera.

Senator Tatad. I thank the gentleman for that, Mr. President.

Just a final question. In applying quantitative restrictions as a safeguard, there is a provision for consultation with the exporting entities.

Is this contemplated also as part of the procedure in this bill?

Senator Enrile. Yes, Mr. President. After all, even if we do not write that in the bill, this treaty is a part of our legal system because we adhere to it; therefore, all of the provisions of the WTO will become suppletory to the measure that we have at hand.

Senator Tatad. Thank you very much, Mr. President.

There being no further questions, I move that the period of interpellations be closed.

Senator Osmena (S). Mr. President, just a clarification, with the permission of the distinguished sponsor and the Majority Leader.

This representation--because the distinguished sponsor said he would accept all amendments--had already proposed an amendment that the phrase "IMPORT SURGES" be amended to INCREASED IMPORTS. It gives our agriculture sector more slack, and besides, this is the wording in the agreement on agriculture and the agreement on safeguards. They refer to increased imports.

Senator Enrile. We will consider that at the proper time, Mr. President, if we will accept.

Senator Osmena (S). Thank you, Mr. President.

Senator Tatad. I have the same in mind. Let that stand as an Osmena amendment when it is finally introduced.

I reiterate my motion, Mr. President. I move that the period of interpellations be closed.

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

Senator Tatad. I move that we now consider the committee amendments.

The President. The committee chairman is recognized for the period of committee amendments.

COMMITTEE AMENDMENTS

Senator Enrile. Mr. President, on page 1, lines 8 and 9, between the word "necessary" and "TO", insert the phrase TO PROTECT DOMESTIC INDUSTRIES FROM IMPORT SURGES AND THE THREAT THEREOF, AND.

Senator Osmeña (S). Point of clarification, Mr. President, with the permission of the sponsor.

I thought that the amended copy as submitted by the sponsor was already the new committee report.

Senator Enrile. Well, I would like to reintroduce them, but if that is the understanding of the Chamber that all the capitalized items in this draft are already the committee amendments, then I would welcome that proposition.

Senator Osmeña (S). I so move, as an omnibus amendment.

The President. The Majority Leader is recognized.

Senator Tatad. Yes, the proposed committee amendments as indicated in the bill that form part of the committee report need to be introduced formally into the *Record*. But if there is a motion similar to the motion proposed by Senator Roco, and the Minority Leader agrees wholeheartedly, then we will consider these as having been read into the *Record*.

Senator Enrile. Including the bracketed words, phrases, clauses, sentences, paragraphs and sections.

The President. That is correct.

Senator Osmeña (S). So that we may now use that as the working draft, the copy that was given to us yesterday.

Senator Enrile. With the committee amendments.

Senator Osmeña (S). Yes, with the lines that are in bold.

Senator Enrile. Yes. And the words, phrases, clauses, sentences, paragraphs and sections bracketed will now be considered as a part of the committee amendments.

The President. With that motion, is there any objection? [*Silence*] There being none, the amendments

introduced by the Committee which are now incorporated in the May 31 version of Senate Bill No. 2033 are deemed read into the *Record* and adopted as committee amendments

The Majority Leader is recognized.

Senator Tatad. Mr. President, I move that we close the period of committee amendments.

The President. Is there any objection? [*Silence*] There being none, the period of committee amendments is hereby closed.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. I move that we suspend consideration of Senate Bill No. 2033.

The President. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 2033 is hereby suspended.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session until ten o'clock tomorrow morning, Thursday, the first of June 2000.

The President. Is there any objection? [*Silence*] There being none, the session is suspended until ten o'clock tomorrow morning, the first of June 2000.

It was 6:03 p.m.

TUESDAY, JUNE 6, 2000 A.M.

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Senator Enrile. Yes, Mr. President. I think we can now afford to stop here and have lunch and then come back this afternoon with fresher mind and better perspective and a filled stomach without power.

I move that we suspend.

SUSPENSION OF CONSIDERATION OF S. NO. 2000

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2000.

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

SUSPENSION OF SESSION

Senator Tatad. I move that we suspend the session until three o'clock this afternoon.

The President. Is there any objection?
[Silence] There being none, the session is suspended until three o'clock this afternoon with instructions to the Secretariat to prepare the revised version up to Section 34.

It was 12:25 p.m.

RESUMPTION OF SESSION

At 3:22 p.m., the session was resumed with the Senate President, Hon. Franklin M. Drilon, presiding.

The President. The session is resumed.

BILL ON SECOND READING

S. No. 2033--Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033.

The President. Is there any objection?
[Silence] There being none, resumption of
consideration of Senate Bill No. 2033 is now in
order.

Senator Tatad. This is the Safeguard Measures
Act. We are now in the period of individual
amendments. I ask that the distinguished sponsor,
Sen. Juan Ponce Enrile, be recognized.

The President. Sen. Juan Ponce Enrile is
recognized.

Senator Enrile. Thank you, Mr. President. We
are in the period of individual amendments.

Senator Tatad. To propose some individual
amendments, I ask that Sen. Sergio R. Osmeña III be
recognized.

The President. Sen. Sergio R. Osmeña III is
recognized.

OSMEÑA (S) AMENDMENTS

Senator Osmeña (S). Thank you, Mr. President.
Will the kind sponsor yield for the consideration of
a few amendments?

Senator Enrile. Mr. President, I am ready to
accept the amendments of the gentleman. We will go
page by page, I guess.

Senator Osmeña (S). Can we go section by
section, Mr. President, because my lining is
different.

Senator Enrile. All right, section by section.

Senator Osmeña (S). Section 1, since this is
the first Safeguard Measures Act, may we just delete
the phrase "of 2000"?

Senator Enrile. It is accepted, Mr. President.

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

Senator Osmeña (S). In Section 2, may we delete « Filipino » and use instead the word DOMESTIC. So it shall read « DOMESTIC industries ».

Senator Enrile. It is accepted, Mr. President.

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

ENRILE-OSMEÑA (S) AMENDMENT

Senator Osmeña (S). In Section 2, line 8, delete the word "industries" and insert the word PRODUCERS.

Senator Enrile. May I suggest that we retain the word "industries" and put the words AND PRODUCERS in order to cover agriculture.

Senator Osmeña (S). That is acceptable, Mr. President.

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

Senator Enrile. So we retain the words "DOMESTIC industries AND PRODUCERS"

The President. We insert the words AND PRODUCERS between the words "industries" and "from" on line 8.

Senator Enrile. It is accepted, Mr. President.

OSMEÑA (S) AMENDMENT

Senator Osmeña (S). On lines 8, 9 and 10, delete the words "IMPORT SURGES AND THE THREAT THEREOF, AND to facilitate the positive adjustment of domestic industries TO IMPORT COMPETITION", and in lieu thereof, insert the words INCREASED IMPORTS WHICH CAUSED OR THREATEN TO CAUSE SERIOUS INJURIES TO DOMESTIC INDUSTRIES OR PRODUCERS.

Senator Enrile. It is accepted, Mr. President.

The President. Is there any objection?

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

GUINGONA-OSMEÑA (S) AMENDMENT

Senator Guingona. Mr. President, I would just like to add the phrase FOR THE PUBLIC INTEREST, if the distinguished sponsor will agree.

Senator Enrile. If the distinguished proponent of the amendment will accept that, Mr. President.

Senator Osmeña (S). I am sorry, Mr. President, I was distracted. May I hear that again, Mr. President.

Senator Guingona. I propose that we add the phrase FOR THE PUBLIC INTEREST at the end of the amendment.

The President. What does Senator Osmeña say?

Senator Osmeña (S). It is accepted, Mr. President.

Senator Enrile. I accept the amendment to the amendment.

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

Senator Tatad. How will the amended provision now read?

The President. Will Senator Osmeña now read the amendment, including the amendment that he has accepted from Senator Guingona?

Senator Osmeña (S). ■ SEC. 2. DECLARATION OF POLICY. - The State shall promote the competitiveness of domestic industries based on sound industrial and agricultural development policies, and make full and efficient use of human and natural resources. In pursuit of these goals, the State shall provide safeguard measures which may be necessary TO PROTECT DOMESTIC INDUSTRIES AND PRODUCERS FROM INCREASED IMPORTS WHICH CAUSED OR THREATEN TO CAUSE SERIOUS INJURIES TO THOSE INDUSTRIES OR PRODUCERS...."

Will the distinguished Minority Leader read exactly his amendment?

Senator Guingona. Just add the phrase FOR THE PUBLIC INTEREST at the end.

Senator Tatad. Maybe not at the end, Mr. President.

Senator Osmeña (S). Yes, maybe not at the end.

Senator Tatad. Because the injury would be for the public interest. [Laughter] That is how it would read.

Senator Guingona. Subject to style, Mr. President. It should be for the public interest that we are doing this.

Senator Tatad. Maybe at the beginning--"The State shall IN THE PUBLIC INTEREST ..."

Senator Guingona. Yes, Mr. President.

The President. Maybe it should be on line 7?

Senator Osmeña (S). It should be on line 7, after the word "goals". "In pursuit of these goals and IN THE PUBLIC INTEREST, the State shall provide safeguard measures...."

Is that acceptable to the Minority Leader?

Senator Guingona. Yes, Mr. President. Subject to style.

Senator Enrile. It is accepted, subject to style.

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

Senator Tatad. Mr. President, in the same section, referring to certain portions that were not touched by the amendments. Just one point of inquiry. Would domestic industries include agriculture also?

Senator Enrile. Yes, Mr. President.

Senator Tatad. So there is no distinction between agriculture and industries.

Senator Enrile. DOMESTIC INDUSTRIES AND PRODUCERS.

Senator Tatad. No, I am referring to line 5. The competitiveness of domestic industries would now be based on sound industrial and agricultural policies.

TATAD AMENDMENTS

Senator Enrile. To be more precise, I suggest that somebody propose that DOMESTIC INDUSTRIES AND PRODUCERS should be the consistent phraseology.

Senator Tatad. May I humbly propose that this be added.

Senator Enrile. What is to be added, Mr. President?

Senator Tatad. The words AND PRODUCERS after the word "INDUSTRIES".

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. On line 6 in the Osmena version, between the words "and" and "efficient", I propose the deletion of the words "make full and" and in lieu thereof, insert the word THE.

Senator Enrile. So we remove the words "make full and".

Senator Tatad. Yes, Mr. President, and insert the word THE.

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. After the word "human", I propose a comma (,) and the deletion of the word "and"; and on line 7, after the word "natural", I

propose to insert the words AND TECHNICAL, so that it will read: "The State shall promote the competitiveness of domestic industries AND PRODUCERS based on sound industrial and agricultural development policies and the efficient use of human, natural AND TECHNICAL resources."

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. On lines 6 and 7, after the word "resources. In pursuit of these goals", I propose to make the phrase "these goals" singular because we are only talking of promoting the competitiveness of the industries and producers. So that will read, "In pursuit of THIS GOAL AND IN THE PUBLIC INTEREST."

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. On line 8, I propose the deletion of the words "which may be necessary". "the State shall provide safeguard measures TO PROTECT DOMESTIC..."

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. That is all, Mr. President.

Senator Flavier. Mr. President.

The President. Sen. Juan M. Flavier is recognized.

Senator Flavier. Section 3, Mr. President.

Senator Enrile. What is the proposed amendment on Section 3 of the gentleman, Mr. President?

Senator Flavier. On page 1, Section 3, line 14, the last line of the page, after the word "source", delete the period (.) and add the following phrase: EXCEPT IMPORTED NONAGRICULTURAL AND AGRICULTURAL RAW MATERIALS NOT PRODUCED LOCALLY, OR IF PRODUCED LOCALLY, BUT NOT IN SUFFICIENT QUANTITIES TO MEET LOCAL DEMANDS.

Senator Osmena (S). Mr. President, may I take exception and object to that amendment?

The President. Before that, may the Chair find out from the sponsor whether he accepts or he rejects the amendment before Sen. Serge Osmena states his objection. What does the sponsor say?

Senator Enrile. Mr. President, that means that safeguards will not apply to imported nonagricultural raw materials not produced locally, or if produced locally but not in sufficient quantities to meet local demands.

I think it is going to be very difficult to accept that proposal because this must cover every conceivable imports. If I remember correctly, my understanding is that we will, except from quantitative restriction imported nonagricultural raw materials not produced locally or if produced locally, they are not in sufficient quantities to meet local demands.

Senator Flavier. Which part would the distinguished gentleman not like to include, Mr. President?

Senator Enrile. That will be in the provisional measures.

Senator Flavier. So which part would the distinguished gentleman not like to be included, Mr. President?

The President. The whole. From what the Chair understands, the sponsor is not inclined to accept.

Senator Enrile. I could not accept this amendment to Section 3, Mr. President, because then it will complicate matters. We will be removing a large portion of our imports which may affect local industries producing nonagricultural raw materials.

Senator Flavier. The distinguished gentleman is not accepting it in this particular section but he will accept it....

Senator Enrile. In another section, if properly introduced.

Senator Flavier. I would have no quarrel with that, Mr. President, provided the protection is there for the downstream industries that will need raw materials.

The President. All right. The amendment is withdrawn in Section 3 in the meantime.

Senator Flavier. That will be fine, except that this will be considered in the appropriate section, Mr. President.

Senator Enrile. Yes, Mr. President.

The President. Senator Flavier may introduce it again at the appropriate section.

Senator Flavier. I will be amenable to that, Mr. President, with the guidance of the sponsor.

Thank you, Mr. President.

The President. We now proceed to page 2.

Senator Enrile. I think the gentleman from Cebu has a proposal in Section 3.

Senator Osmeña (S). That was the proposal of Senator Flavier.

In Section 4,--

Senator Enrile. Section 4, Mr. President.

Senator Osmeña (S). --may I propose an added definition for C.I.F. "C.I.F." means Cargo, Insurance and Freight.

Senator Enrile. Where is that? What line, Mr. President?

Senator Osmeña (S). It would probably fall between lines 11 and 12 in alphabetical order on page 2 of the distinguished gentleman's bill.

Senator Enrile. All right, C.I.F. The distinguished gentleman may proceed, Mr. President.

Senator Osmeña (S). I am sorry, Mr. President. We have to go back to line 3 of page 2 and delete the words "listed as an 8-digit item". Would that already be included in the distinguished gentleman's amendments? Am I supposed to....

Senator Enrile. The word "cargo" here should not be "cargo" but "cost." This is Cost, Insurance and Freight, C.I.F.

Senator Osmeña (S). No, it is cargo. Cost of cargo. Insurance is a cost, freight is a cost,

cargo is a cost, but the expenditure made for, let us say, the car is referred to as a cargo.

But I am willing to look at the legal dictionary to.... This is a standard usage.

Senator Enrile. When we talk of C.I.F. and F.O.B., F.O.B. is Free on Board; C.I.F. is Cost, Insurance, Freight.

Senator Osmeña (S). May we revisit this later? I will just ask for a legal dictionary and I am willing to abide by the dictionary.

Just a clarificatory question, Mr. President. In the copy that was handed to me--which already incorporates the amendments made by the distinguished sponsor--am I supposed to read those amendments or deletions, or are these already accepted as....

Senator Enrile. I would suggest, Mr. President, that the distinguished gentleman read them so that I will accept them, so that we will follow the *Rules*.

Senator Osmeña (S). Therefore, on page 2, line 3, delete the phrase "listed as an 8-digit item".

Senator Enrile. Just a minute, Mr. President. Line 2....

Senator Osmeña (S). Line 3 on page 2.

Senator Enrile. Is it line 3 on page 2 of the distinguished gentleman's draft, Mr. President?

Senator Osmeña (S). No, Mr. President. This is the distinguished gentleman's official....

The President. May I invite the gentlemen on the Floor that the draft we are looking at already contains bracketed phrases which indicates that they have already been deleted. For example, in the line

being cited by Senator Osmeña, the phrase "listed as an 8-digit item" is bracketed.

Senator Enrile. This is already an amendment of the committee, Mr. President.

The President. Yes.

Senator Osmeña (S). That is what I asked.

Senator Enrile. We do not have to repeat. The gentleman will only repeat the red-colored words that have been inserted by him in his version.

Senator Osmeña (S). Very good. That would certainly simplify matters. I would like to thank the gentleman for that.

The President. Senator Guingona wishes to take the Floor.

GUINGONA AMENDMENT

Senator Guingona. Mr. President, may I revisit Section 3 on page 1? It says here: "This Act shall apply to all articles being imported into the country irrespective of source."

May we propose an amendment: "Scope of Application" - SAFEGUARD MEASURES PROVIDED IN THIS ACT SHALL BE APPLIED TO A PRODUCT BEING IMPORTED INTO THE COUNTRY IRRESPECTIVE OF ITS SOURCE." Because of the MNLF provision, Mr. President.

Senator Enrile. MNLF?

Senator Guingona. Most-favored-nation clause. I am getting...

Senator Osmeña (S). That is MFN. [Laughter]

Senator Guingona. MFN. If we ban rubber shoes, for example, from one country because of the most-

favorable-nation clause, it will apply to all nations. So what we are banning is the product.

Senator Enrile. Mr. President, if we grant a special concession to a product, that will apply to all nations. But if we impose a detriment to one product, it will not apply to all nations.

Senator Guingona. Precisely. But the way it is worded here "all articles being imported into the country"

Senator Enrile. Mr. President, that is subject to the provision of the Treaty. After all, the Treaty is still a part of our legal system because we adhered to it. When we interpret this provision, we must always take into account the provision of the Treaty to which we adhered.

Senator Guingona. Yes, but we are only trying to ban or to stop the undue importation of a particular product.

Senator Enrile. We cannot ban, Mr. President. We are not banning. We are not authorized to ban any product.

Senator Guingona. No. I did not say "ban". I continued by saying "to temporarily stop or increase tariffs, the undue importation which is threatening to harm that particular product."

Senator Enrile. That is correct, Mr. President.

Senator Guingona. But if we say as it is stated, "all articles", I do not think that is the intent of the distinguished sponsor.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Just to be helpful. I think the only purpose of the word "all" there is to signify that all goods being imported into the country are capable of being imported in such quantities as to pose a threat or a serious injury to like or competitive products being introduced in the Philippines.

Senator Enrile. Would the problem of the distinguished gentleman be satisfied if we just say, "This Act shall apply to articles, COMMODITIES AND GOODS being imported into the country irrespective of source." We remove the word "all".

Senator Guingona. Yes, specific. As long as it is...

Senator Enrile. If the gentleman will propose that, Mr. President, I will accept it.

Senator Guingona. I so propose it, Mr. President.

Senator Enrile. We will delete the word "all"; put a comma (,) after the word "articles," and then insert the words COMMODITIES AND GOODS. Will that be it?

Senator Guingona. Yes, Mr. President.

Senator Enrile. The amendment is accepted, Mr. President.

The President. Is there any objection?
[Silence] There being none, the amendment is adopted.

Senator Osmena (S). Just a word of caution, Mr. President. The phrases and words used here are used in the WTO Agreement and the United States Tariff and Customs Code.

Senator Enrile. That is correct, Mr. President.

Senator Osmena (S). The word "article" is always used in the U.S. Tariff and Customs Code.

Senator Enrile. Mr. President, to be consistent, I suggest that we use the plural form to distinguish it from the grammatical term "article" - ARTICLES, COMMODITIES, GOODS, for interpretative clarity.

Senator Osmena (S). That is all right, Mr. President.

So on page 2...

Senator Enrile. Change letter "b" to C.

OSMENA (S) AMENDMENT

Senator Osmena (S). May we renumber later, Mr. President. I would like to introduce a new definition for the word "Consumers" which shall read as follows:

CONSUMERS SHALL REFER TO ORGANIZED CONSUMER GROUPS REPRESENTING THE INTERESTS OF NATURAL PERSONS WHO ARE PURCHASERS, LESSEES, RECIPIENTS OR PROSPECTIVE PURCHASERS, LESSEES, RECIPIENTS OF CONSUMER PRODUCTS, SERVICES OR CREDIT.

Senator Enrile. There are two "lessees" there. What is the distinction between the two "lessees"?

Senator Osmena (S). The first group consists of purchasers, lessees, while the second group is composed of prospective purchasers, lessees.

Senator Enrile. There should be no comma but a hyphen, Mr. President.

Senator Osmena (S). PURCHASERS, LESSEES, RECIPIENTS, OR PROSPECTIVE PURCHASERS, LESSEES, RECIPIENTS OF CONSUMER PRODUCTS, SERVICES OR CREDIT.

Senator Enrile. Is the distinguished gentleman proposing that amendment now, Mr. President.

Senator Osmena (S). Yes, Mr. President.

Senator Enrile. It is accepted, Mr. President.

The President. Is there any objection?
[Silence] There being none, the amendment is adopted.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. Mr. President, so that we can proceed with our session proper for the day, with the permission of the gentlemen on the Floor, I move that we suspend consideration of Senate Bill No. 2033.

The President. Consideration of Senate Bill No. 2033 is hereby suspended.

ADJOURNMENT OF SESSION

Senator Tatad. Mr. President, I move that we adjourn the session to a later time within the next few minutes.

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

It was 3:48 p.m.

TUESDAY, JUNE 6, 2000 P.M.

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Senator Osmena (J). Mr. President, with the permission of everybody on the Floor. I have just been told by the staff that the final task in preparing a clean copy could be sent through the e-mail. I know the e-mail of Sen. Serge Osmena; I do not know the e-mail of the Minority Leader. But if we will all provide the Secretariat with our e-mails, then it can be e-mailed maybe tonight at about one o'clock in the morning and when we wake up we just download it.

The President. In any case, as we have previously mentioned, the Secretariat has informed us, that the copy now with us, which states "version as of June 6, 2000" already contains the committee amendments except that starting with Section 35. So that, Section 35, et cetera, will be delivered at eight o'clock tomorrow morning.

BILL ON SECOND READING

S. No. 2033 - Safeguard Measures Act of 2000
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill 2033 as reported out under Committee Report No. 230.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2033 is now in order.

Senator Tatad. Mr. President, we are still in the period of amendments. I ask that the distinguished Chairman, the honorable Sen. Juan Ponce Enrile be recognized.

The President. Sen. Juan Ponce Enrile is recognized.

Senator Enrile. I am ready, Mr. President, but the proponent of the amendment has, I think, a 'liquidity problem'.

Senator Tatad. The main proponent is out of the room right now.

SUSPENSION OF SESSION

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

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

It was 6:39 p.m.

RESUMPTION OF SESSION

At 6:42 p.m., the session was resumed.

The President. The session is resumed.

Sen. Juan Ponce Enrile and Sen. Sergio Osmena are recognized.

Senator Enrile. I am ready, Mr. President.

Senator Osmena (J). Mr. President, would the kind sponsor yield again?

Senator Enrile. Of course, always, Mr. President.

OSMENA (S) AMENDMENTS

Senator Osmena (S). Mr. President, we left off in the definition of the term "consumers". On the third line after the first "recipients", may we add a semicolon (;)

Senator Enrile. It is accepted, Mr. President.

Senator Osmena (S). Thank you, Mr. President.

Then, another definition for the term "Critical circumstances". CRITICAL CIRCUMSTANCES SHALL MEAN CIRCUMSTANCES WHERE THERE IS CLEAR EVIDENCE THAT INCREASED IMPORTS WHETHER ACTUAL OR RELATIVE TO DOMESTIC PRODUCTION ARE CAUSING OR MAY CAUSE SERIOUS INJURY TO A DOMESTIC PRODUCER AND WHEN DELAY IN TAKING ACTION UNDER THIS ACT WOULD CAUSE DAMAGE TO THE INDUSTRY THAT WOULD BE DIFFICULT TO REPAIR.

ENRILE-OSMENA (S) AMENDMENT

Senator Enrile. Mr. President, I have no objection to this definition but may I suggest, if it is possible, that instead of the word "clear" we use the words PRIMA FACIE

Senator Osmena (S). It is accepted, Mr. President.

Senator Enrile. And instead of the word "actual", we use the word ABSOLUTE. That is the terminology of the treaty.

I would just suggest if that is...

Senator Osmena (S). It is accepted, Mr. President

Senator Enrile. So, this will mean " ...THERE IS PRIMA FACIE EVIDENCE THAT INCREASED IMPORTS WHETHER ABSOLUTE OR RELATIVE TO DOMESTIC PRODUCTION ARE CAUSING...."

Senator Osmena (S). It is accepted, Mr. President.

Senator Enrile. I accept the proposed amendments, Mr. President.

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

Senator Osmena (S). On Subsection (g) defining « Domestic industry » on the second line, may we just delete the word « the ».

The President. Can the gentleman just tell us the page, please?

Senator Osmena (S). We are still on page 2, line 18. The second word « the » is bracketed.

The President. All right.

Senator Enrile. Is it line 18, Mr. President?

Senator Osmena (S). It is on page 2, line 18 of the gentleman's copy.

Senator Enrile. I think it is better if we just use the gentleman's copy.

Senator Osmeña (S). My technicolor copy?

Senator Enrile. Yes, the gentleman's technicolor copy.

Senator Osmeña (S). Does the Senate President have that?

Senator Enrile. I do not know.

The President. There is one copy that is official which we are looking at.

Senator Osmeña (S). That is not the technicolored copy. Is it colored? Is it color-coded?

The President. There is no color coding. This is the official Senate copy.

Senator Enrile. Well, we can use the official copy.

Senator Osmeña (S). On page 2, line 18, just as a matter of style, delete the second word « the ». So it will read:

Senator Enrile. Line 18--« of the.»

Senator Osmeña (S). So it will read: "Domestic producers, as a whole, of like and directly competitive products...."

Senator Enrile. I accept it, Mr. President.

The President. Excuse me, the Chair cannot follow. We are on page 2...

Senator Enrile. Line 18, after the word "of" there is an article "the". There is a proposal to delete that and this representation accepted it.

The President. How will it read now? "Domestic industry shall refer to domestic producers, as a whole...."

Senator Enrile. ...of like or directly competitive...."

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

Senator Osmeña (S). On line 24, Subsection E, delete the entire subsection on "GENERAL SAFEGUARDS COMMITTEE". That is on page 2, line 24, all the way to line 5 of page 3.

Senator Enrile. I accept it, Mr. President.

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

SUSPENSION OF SESSION

Senator Osmeña (S). Mr. President, I move that we suspend the session for one minute.

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

It was 6:47 p.m.

RESUMPTION OF SESSION

At 6:47 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña may proceed.

Senator Enrile. Just a minute, Mr. President. On line E: "GENERAL SAFEGUARDS COMMITTEE" SHALL REFER TO A CABINET LEVEL COMMITTEE...." Is that it, Mr. President?

Senator Osmeña (S). That is it, Mr. President.

Senator Enrile. Yes. I accept it. I will accept the deletion.

The President. The amendment is approved in the absence of any objection.

Senator Osmeña (S). On line 6, page 3, after the word "mean", retain the words "an emergency"; bracket [] the word "trade measure" and add the word ACTION.

Senator Enrile. So this will mean--"General safeguard measure shall mean"

Senator Osmeña (S). "...An emergency ACTION" --

Senator Enrile. --an emergency ACTION" --

Senator Osmeña (S). --"provided for...." And those are the exact words.

Senator Enrile. And then bracket [] the words "trade measure". I accept, Mr. President.

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

Senator Osmeña (S). Just by way of explanation Emergency action is the way "general safeguards measure" is defined in Article XIX of the GATT and WTO Agreement on Agriculture.

On page 3, line 10...

Senator Enrile. Just a minute, Mr. President. All right, page 3, line 10.

Senator Osmeña (S). Retain the word "consumers".

Senator Enrile. In other words, we remove the bracket?

Senator Osmeña (S). But we keep the brackets [] on "other users". Yes, Mr. President.

Senator Enrile. We remove the bracket before the word "consumer" and put a bracket...

Senator Osmeña (S). ...before the word "AND".

Senator Enrile. Retain the bracket after the comma (,) before the word "importers".

Senator Osmeña (S). Retain the bracket after the word "users" --the word "importers" remains....

Senator Enrile. Open.

Senator Osmeña (S). Yes, that was never bracketed.

Senator Enrile. And then the comma (,) is bracketed.

Senator Osmeña (S). That is correct. And then after the word "exporters", we bracket [] "foreign producers and governments of the countries exporting the product under consideration".

The President. That is presently bracketed.

Senator Enrile. It is accepted, Mr. President.

Senator Osmeña (S). And instead, include the phrase OF THE PRODUCT UNDER CONSIDERATION.

So it shall now read, Mr. President:

"Interested parties shall include relevant domestic producers, consumers, importers and exporters of the product under consideration".

Senator Enrile. It is accepted, Mr. President.

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

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. May I just go back to "H".

Senator Osmeña (S). Can we have the page and line, Mr. President?

Senator Tatad. I am sorry. I am using the Osmeña technicolor copy.

Senator Osmeña (S). New "H" or old "H"?

Senator Enrile. That was "F" that was...

Senator Osmeña (S). How does it start, "Like product"?

Senator Enrile. "General safeguard", Mr. President.

Senator Osmeña (S). That is "F".

TATAD AMENDMENT

Senator Tatad. This is "F", now "H", line 7, page 3. Between the words "the" and "WTO", I propose to insert ARTICLE II just to be specific.

Senator Enrile. Article Roman numeral II?

Senator Tatad. Yes.

Senator Enrile. Or arabic 2?

Senator Tatad. It does not matter.

Senator Osmena (S). No, we have to use Roman numeral because, as stated earlier, Article XIX of GATT is in Roman numeral.

Senator Tatad. All right.

Senator Osmena (S). And perhaps, the amendment should be inserted before the article "the" and not after "the". So it will read...

Senator Tatad. Yes, between the words "and" and "the".

Senator Osmena (S). Between "and" and "the".

Senator Tatad. "ARTICLE II OF THE WTO Agreement on Safeguards".

Senator Enrile. Let me see. "...provided for under Article XIX of GATT 1994 and ARTICLE II..."

Senator Tatad. "Of the WTO Agreement on Safeguards".

Senator Enrile. So ARTICLE II OF shall be inserted.

Senator Tatad. Yes; Mr. President.

Senator Enrile. It is accepted, Mr. President.

Senator Tatad. Thank you.

Senator Enrile. Thank you, it is accepted, Mr. President.

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

Senator Osmena (S). At the bottom of the page, after the last...

Senator Flavier. Mr. President.

The President. Senator Flavier is recognized.

FLAVIER AMENDMENT

Senator Flavier. Mr. President, anterior amendment on the same page, line 18--

Senator Enrile. Line 18, "Market access opportunity" ?

Senator Flavier. --yes, Mr. President, between the words "percentage" and "total", insert the words OF THE. So that it will read "Market access opportunity shall mean the percentage OF THE total annual volume...."

Senator Enrile. It is accepted, Mr. President

Senator Flavier. Thank you, Mr. President.

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

OSMENA (S) AMENDMENT

Senator Osmena (S). Mr. President, on page 3, after the last line on line 29, include a new section which will define the phrase POSITIVE ADJUSTMENT TO IMPORT COMPETITION.

" POSITIVE ADJUSTMENT TO IMPORT COMPETITION" SHALL REFER TO THE ABILITY OF THE DOMESTIC INDUSTRY TO COMPETE SUCCESSFULLY WITH THE IMPORTS AFTER DETERMINATION OF ANY SAFEGUARD MEASURE OR TO THE ORDERLY TRANSFER OF RESOURCES TO OTHER PRODUCTIVE PURSUITS AND TO THE ORDERLY TRANSITION OF DISLOCATED WORKERS IN THE INDUSTRY TO OTHER PRODUCTIVE PURSUITS.

Senator Enrile. It is accepted, Mr. President.

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

Senator Enrile. Page 4.

Senator Osmena (S). On page 4, line 3, may we retain the definition of the word "Product".

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

TATAD AMENDMENT

Senator Tatad. On line 1, between the words "obtained" and "subtracting", I propose to replace...

Senator Enrile. What page is this?

Senator Tatad. Page 4.

Senator Enrile. Yes.

Senator Tatad. Line 1, between the words "obtained" and "subtracting", I propose to replace the word "by" with the word AFTER.

Senator Enrile. "Price difference is the amount obtained AFTER...."

Senator Tatad. "Subtracting" .

Senator Enrile. Bracket [] "by" and insert AFTER

Senator Tatad. Delete "by" .

Senator Enrile. It is accepted, Mr. President.

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

Senator Osmena (S). Mr. President.

The President. Sen. Serge Osmena is recognized.

OSMENA (S) AMENDMENT

Senator Osmena (S). On line 3, Mr. President, may we retain the definition of "Product" .

Senator Enrile. With the suggestion, Mr. President, if it is acceptable to the gentleman, that we use the plural terms here, "refers to articles, commodities or goods" .

Senator Osmeña (S). It is accepted, Mr. President.

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

Senator Osmeña (S). On page 4, line 11, after "domestic industry", remove the semicolon (;) and add the following phrase: AFTER EVALUATION BY COMPETENT AUTHORITIES OF ALL RELEVANT FACTORS OF AN OBJECTIVE AND QUANTIFIABLE NATURE HAVING A BEARING ON THE SITUATION OF THE INDUSTRY CONCERNED, IN PARTICULAR THE RATE AND AMOUNT OF THE INCREASE IN IMPORTS OF THE PRODUCT CONCERNED IN ABSOLUTE AND RELATIVE TERMS, THE SHARE OF THE DOMESTIC MARKET TAKEN BY INCREASED IMPORTS CHANGES IN LEVEL OF SALES PRODUCTION, PRODUCTIVITY, CAPACITY, UTILIZATION, PROFIT AND LOSSES AND EMPLOYMENT;.

Senator Enrile. It is accepted, Mr. President.

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

Senator Osmeña (S). Also on page 4, line 13, after the phrase "WTO Agreement on Agriculture", remove the semicolon (;). I am sorry. This is an entirely new section.

Senator Enrile. We retain that subsection.

Senator Osmeña (S). We retain that subsection. I am sorry, Mr. President.

Senator Enrile. Yes. And then insert a new subsection.

Senator Osmeña (S). Insert a new subsection which will define SUBSTANTIAL COST. SUBSTANTIAL COST SHALL INCLUDE CONSIDERATION OF THE RATE AND AMOUNT OF THE INCREASE IN IMPORTS OF THE PRODUCTS CONCERNED IN ABSOLUTE AND RELATIVE TERMS. THE SHARE OF THE DOMESTIC MARKET TAKEN BY THE IMPORTS AND THE EXTENT TO WHICH THE PHILIPPINE MARKET IS THE FOCAL POINT FOR THE DIVERSION OF EXPORTS OF SUCH AN ARTICLE OF THE EXPORTING COUNTRY TO THIRD COUNTRY MARKETS.

Senator Enrile. It is accepted, Mr. President.

Senator Osmeña (S). Thank you, Mr. President.

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

Senator Osmeña (S). On page 4, line 14, after the word "shall", insert the phrase BE UNDERSTOOD TO. So it shall now read: "Threat of serious injury shall BE UNDERSTOOD TO mean".

Senator Enrile. It is accepted, Mr. President.

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

Senator Osmeña (S). On the same page, same line, after the word "mean", place in brackets [] "the factual existence of a clear and imminent...."

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

Senator Osmeña (S). It is on the same page 4, same line 15, we bracket [] "the factual existence of a clear and imminent."

Senator Enrile. So it will read: "shall BE UNDERSTOOD TO mean [factual existence of a clear and imminent]".

Senator Osmeña (S). And then after the word "injury",

Senator Enrile. Just a minute, Mr. President. Then this will read: "Threat of serious injury shall...."

Senator Osmeña (S). I am not through yet, Mr. President. I have something at the end. So after the word "injury", insert the phrase: THAT IS CLEARLY IMMINENT. So it shall now read....

Senator Enrile. Bracket [] the semicolon [;] and then add....

Senator Osmeña (S). THAT IS CLEARLY IMMINENT.

Senator Enrile. THAT IS CLEARLY IMMINENT. It is accepted, Mr. President.

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

Senator Osmeña (S). Omnibus amendment to reletter or renumber all the subsections, Mr. President.

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

Senator Enrile. Section 5, Mr. President. Is there any amendment of the gentleman?

Senator Osmeña (S). Yes, Mr. President, on line 23, Section 5.

Senator Enrile. On line 23.

Senator Osmeña (S). I am sorry. On line 22, after the word "product", bracket [] also the comma [,].

Senator Enrile. After the word "product", bracket [] the comma [,].

Senator Osmeña (S). That is all on that line.

Senator Enrile. So it shall now read: "Whenever any product is being imported".

Senator Osmeña (S). That is correct.

Senator Enrile. And then....

Senator Osmeña (S). And then on line 27, after the word "OR", insert the article THE. So it shall read: "THE THREAT THEREOF".

Senator Enrile. "THE THREAT". It is accepted, Mr. President..

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

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. Mr. President, I was wondering whether the distinguished sponsor will accept a slight change in Section 5, "CONDITIONS FOR THE Application of General Safeguard Measures" to read as follows: A SAFEGUARD MEASURE SHALL BE APPLIED TO A PRODUCT AFTER IT HAS BEEN DETERMINED,...

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

Senator Guingona. Beginning with line 22. "A SAFEGUARD MEASURE SHALL BE APPLIED TO A PRODUCT AFTER IT HAS BEEN DETERMINED, PURSUANT TO THE PROVISIONS OF THIS ACT, THAT SUCH PRODUCT is being imported into the country in SUCH increased quantities, whether absolute or relative to the domestic production, AND UNDER SUCH CONDITIONS AS TO CAUSE OR THREATEN TO CAUSE serious injury TO THE DOMESTIC INDUSTRY THAT PRODUCES LIKE OR DIRECTLY COMPETITIVE PRODUCTS, AND AFTER IT HAS BEEN ESTABLISHED THAT THE APPLICATION OF SUCH SAFEGUARD MEASURE WOULD BE IN THE PUBLIC INTEREST."

Senator Enrile. Mr. President, this is the language of the Treaty, and I am a little reluctant to change it. These are accepted formulations around the world. I think, with the permission of the Minority Leader, I would like to consider his proposal but perhaps, if I may suggest, we adhere as closely as possible to the wording of the WTO.

Senator Guingona. The proposed text we read, Mr. President, originated in paragraph (1), Article 2 of the Agreement on Safeguards, and it contains phrases such as, "to be a substantial cause of injury by" which came from the U.S. Trade Act of 1974. But the U.S. Trade Act, although it took place before the WTO, had accompanying safeguards on anti-trust, et cetera. We have inserted the public-interest clause here because it is part and parcel to mean that the measure is not intended to just isolate the importation of a product but to serve the national interest.

Senator Enrile. May I get a restatement of the gentleman's proposed amendment.

Senator Guingona. "A SAFEGUARD MEASURE SHALL BE APPLIED TO A PRODUCT, AFTER IT HAS BEEN DETERMINED, PURSUANT TO THE PROVISIONS OF THIS ACT, THAT SUCH PRODUCT is being imported into the country IN SUCH increased quantities,

whether absolute or relative to the domestic production, AND UNDER SUCH CONDITIONS AS TO CAUSE OR THREATEN TO CAUSE serious injury TO THE DOMESTIC INDUSTRY THAT PRODUCES LIKE OR DIRECTLY COMPETITIVE PRODUCTS, AND AFTER IT HAS BEEN ESTABLISHED THAT THE APPLICATION OF SUCH SAFEGUARD MEASURE WOULD BE IN THE PUBLIC INTEREST.»

Senator Enrile. Who will determine the serious injury in that case, Mr. President?

Senator Guingona. The Secretary, in the case of provisional remedy and the investigation and determination of the injury as provided for in Section 7.

Senator Enrile. It is accepted, Mr. President, subject to style.

Senator Osmeña (S). Mr. President, are we amending Section 5?

Senator Enrile. Yes.

Senator Guingona. That is why we ask permission.

Senator Osmeña (S). Mr. President, since there are several important items here, may we have a copy?

SUSPENSION OF SESSION

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

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

It was 7:05 p.m.

RESUMPTION OF SESSION

At 7:07 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Perhaps, Mr. President; we can revisit Section 5 later after the Minority Leader and Senator Osmeña shall have conferred on the appropriate version.

The President. All right. Shall we proceed to...

Senator Osmeña (S). Anterior amendment, Mr. President. On page 4, line 12, after the word « emergency », bracket [] « trade measure » and insert the word ACTION. So it shall now read: « shall mean an emergency ACTION » . And on line 13, after the word « provided », insert the word FOR.

Senator Enrile. It is accepted, Mr. President.

Senator Osmeña (S). Thank you, Mr. President.

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

SUSPENSION OF SESSION

Senator Osmeña (S). Mr. President, I move that we suspend the session for one minute.

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

It was 7:08 p.m.

RESUMPTION OF SESSION

At 7:08 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña (S). Mr. President, on page 5, line 6, may we retain Section 6, which defines "Initiation of Action Involving General Safeguard Measure."

Senator Enrile. Does the gentleman mean the bracketed portion, Mr. President?

Senator Osmeña (S). That is correct. The entire bracketed portion, Mr. President.

Senator Enrile. There are two Sections 6 here--one is bracketed, the other one...

Senator Osmeña (S). The one on line 6.

Senator Enrile. Line 6.

Senator Osmeña (S). Yes.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. If the two distinguished sponsors will not mind, may I give copies of our proposal so that they can consider the same to save time, Mr. President.

Senator Enrile. May I suggest that the text be given to the sponsor of the individual amendment.

At this juncture, the Senate President relinquished the Chair to Sen. Juan M. Flavio.

May I know the pleasure of the distinguished gentleman?

Senator Osmeña (S). Yes, Mr. President. I was going to ask that on page 5, line 6, remove the brackets for the entire section all the way down to line 25.

Senator Enrile. It is accepted, Mr. President.

Senator Osmeña (S). Thank you, Mr. President. Then after line 21...

Senator Enrile. We bracket [] Section 6.

Senator Osmeña (S). We remove the bracket from the old Section 6 on line 6. I am not talking about the new Section 6 on line 26.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmeña (S). May we add between lines 21 and 22 of the same page a paragraph that states:

THE SECRETARY MAY ALSO INITIATE ACTION UPON THE REQUEST OF THE PRESIDENT; OR A RESOLUTION OF THE HOUSE OR SENATE COMMITTEE ON AGRICULTURE, OR THE HOUSE OR SENATE COMMITTEE ON TRADE AND COMMERCE.

Senator Enrile. Is that all?

Senator Osmeña (S). That is all for that particular paragraph.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved:

Senator Tatad. Mr. President.

Senator Enrile. With the permission of the Majority Leader. In my copy of the working draft, on line 26 there is a Section 6. May I suggest that we bracket [] this if we are going to retain the originally bracketed Section 6.

Senator Tatad. Mr. President.

The Presiding Officer [Sen. Flavier]. The Majority Leader is recognized.

Senator Tatad. With the permission of the distinguished sponsor. May I go back to Section 6, as amended by Senator Serge Osmeña, and may I refer to the technicolor copy. [Pause]

After consulting with the sponsor, may I first move that we re-bracket [] line 26 all the way to line 22 on page 6.

Senator Osmeña (S). Mr. President, I have not gotten that far yet, and I still have an insertion between line 25 and line 26. I thought that the amendment of the Majority Leader is on line 9.

Senator Tatad. I was going to line 9, but I was requested by the sponsor. In that event, I withdraw that motion.

TATAD AMENDMENTS

May I now go back to line 9 on page 5. I simply would like to propose the deletion of the words "sustained by" between the words "injury" and "or". I do not believe the sentence suffers by that deletion.

Senator Enrile. May I have the proposed amendment again, Mr. President?

Senator Tatad. On line 9, page 5, between the words "injury" and "or", I propose to delete the words "sustained by".

Senator Enrile. Just a minute. Line 9, page 5, reads: "taken to remedy the serious injury sustained by, or prevent the threat thereof to...."

Senator Tatad. I would like to simply delete the words "sustained by", and after the word "to", eliminate the comma (,).

Senator Enrile. So that line will read: "taken to remedy the serious injury or prevent the threat thereof to the domestic industry...."

The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). Mr. President, on page 5, between lines 25 and 26, I propose to add a new paragraph which would still be part of Section 6. It reads:

THE SECRETARY MAY EXTEND LEGAL, TECHNICAL AND OTHER ASSISTANCE TO THE CONCERNED DOMESTIC PRODUCERS AND THEIR ORGANIZATIONS AT ALL STAGES OF THE SAFEGUARDS ACTION.

Senator Enrile. The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). On page 5, line 26, I propose to bracket [] the entire Section 6, all the way up to page 6, line 22.

Senator Enrile. The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). On page 6, line 23, remove the open bracket ([) from "SEC. 7", and the close bracket (]) on page 7, line 10.

Senator Enrile. The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Enrile. What is the pleasure of the distinguished gentleman with respect to line 11?

Senator Osmena (S). On line 23, page 6, Mr. President.

Senator Enrile. Line 11, page 7, Mr. President.

Senator Osmena (S). I am still on page 6 after we removed the bracket. On line 23, page 6, delete or bracket [] "sixty (60)" and insert FIFTEEN (15). So it shall now read: "Not later than FIFTEEN (15) days from receipt of the petition or a *motu proprio* initiation of preliminary safeguards investigation".

Senator Enrile. The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

We are now on page 7.

Senator Osmena (S). On page 7, line 11, bracket [] the entire SEC. 7, all the way to page 10, line 13. This is three or four pages.

Senator Tatad. Mr. President, I think we have to unbracket line 10, page 7.

Senator Enrile. Just a minute. Up to page 11, Mr. President.

Senator Osmena (S). Up to page 10.

Senator Tatad. Before that, we unbracketed line 23. The close bracket appears on line 10, page 7. We have to unbracket line 10.

Senator Enrile. Where are we now? Page 7, line what?

Senator Tatad. Line 10. We just want to remove the bracket [] because it is still there.

Senator Osmeña (S). That was already unbracketed.

Senator Enrile. That was already stated in the *Record*, Mr. President, and accepted.

Senator Tatad. All right.

Senator Enrile. So we will now....

Senator Osmeña (S). Bracket [] "SEC. 7" which begins on page 7, line 11, and ends on page 10, line 13.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmeña (S). On page 10, line 14, we bracket [] "SEC. 8. INSPECTION OF EVIDENCE" all the way up to page 11, line 3.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

My amendment will be on page 11, line 14, if that will be allowed.

The distinguished sponsor will recall that I had an amendment on page 3, but the sponsor requested that it be placed under these provisional measures, and I would like to read it.

On page 11, line 14, after the word "industry," put a semicolon (;)....

Senator Tatad. Mr. President.

The Presiding Officer [Sen. Flavie]. Does the Majority Leader have an anterior amendment?

Senator Tatad. Anterior amendment, Mr. President.

The Presiding Officer [Sen. Flavie]. Please proceed.

TATAD AMENDMENTS

Senator Tatad. On line 12, after the word "SPECIFIC," I propose to insert the words OR BOTH.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Enrile. We cannot apply ad valorem and specific simultaneously, Mr. President. It is either ad valorem or specific.

Senator Tatad. In the case of safeguards, Mr. President, it is being done. And given a little time, I could produce the specific instances in other countries.

Senator Enrile. I will have no objection to that, Mr. President. I will accept the amendment.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Tatad. On the same line 12, I propose to place a period (.) after the word "bond" and to delete the rest of the sentence up to line 14 ending with the word "industry".

The reason for this, Mr. President, is that under Article VI of the Agreement on Safeguards, the only provisional safeguard contemplated would take the form of a tariff measure. While I support the adoption of QRs as general safeguards, under the Agreement on Safeguards,

provisional safeguard measures are limited to tariff measures precisely because a provisional safeguard measure act is issued only after a preliminary investigation. Even without notification to the parties, in a critical situation the competent authority may impose a provisional safeguard measure but the final investigation could produce exactly different findings such as to compel the competent authority to refund the additional tariff that has been imposed.

Now, in case a quantitative measure is imposed as a provisional safeguard measure act, then there is no way of restituting the laws in case the final investigation produces a different result. This is the philosophy and this is the reason why Article VI is very clear on this.

Senator Osmeña (S). Mr. President, I object to that interpretation.

We have gone through this debate with the original sponsor of this bill, and we maintain that Article VI does not prohibit quantitative restriction. As a matter of fact, the word that was utilized is the word SHOULD rather than "shall".

I would like to read it for the third time on this debate on safeguards. Article VI of the WTO Agreement on Safeguards provides:

In critical circumstances where delay would cause damage which would be difficult to repair, a member may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury. The duration shall not exceed 200 days....

The next line says:

Such measures should take the form of tariff increases to be promptly refunded....

Now, Mr. President, ...

Senator Tatad. Let us complete the provision, Mr. President.

Senator Osmeña (S). I will complete it then.

Such measures should take the form of tariff increases to be promptly refunded if the subsequent investigation referred to in paragraph 2 of Article IV does not determine that

increased imports have caused or threatened to cause serious injury to a domestic industry.

The duration of any such provisional measures shall be counted as part of the initial period and any extension referred to in paragraphs 1, 2, and 3 of Article VII.

Senator Tatad. Mr. President, as I have said, I am not against the imposition of quantitative restrictions as a general safeguard. If I may be allowed to just clarify this point, because our colleague is correct. The word is *SHOULD*, not *shall*, and there are many ways of interpreting this. But we have to go to the rationale, the *raison d'être* of this statement.

In case the final investigation returns a finding that there was no serious injury to the product, to the like or directly competitive product, that the injury to this product may be caused by things other than the increased importation of this product from foreign sources, how does the country or the government that has imposed quantitative restriction now retribute?

In the case of tariffs, it is a refund. The money is there; it can be refunded. But in case of quantitative restriction, we have importations that would have been foregone as a result of the quantitative restriction during the time that the provisional measure is in place.

Now, this provisional measure is to last for 200 days. During these 200 days, the government should have completed its final investigation.

If the final investigation confirms the preliminary finding that prompted the provisional measure, well and good. But if it does not and it says that there is no basis to the provisional measure, what then?

Senator Enrile. Mr. President, my understanding of the application of all these escape clauses is that, these were allowed and given as a response to possible injuries to importing countries, and every doubt must be resolved by the importing country in favor of safeguarding its own industries. That is one.

Having said that, with respect to the question of the distinguished gentleman, in the case of tariff increase, we can refund the money. We can remedy a quantitative restriction in the form of increasing the offtake once we pass the 200 days. So, actually, there is a remedy.

I am submitting the proposition that whatever remedies the importing country can adopt after a finding of serious

injury, it can also use it as a provisional measure. That is the reason why the word "should" was used rather than a mandatory "must".

Senator Tatad. Mr. President, I will not insist on this point. I am prepared to state that I rely on the wisdom of our wiser colleagues. Of course, we are very well aware of the fact that under Article XII of the Agreement on Safeguards, we are to notify promptly the Committee on Safeguards under the Council of Trade and Goods of the WTO of whatever laws, regulations or administrative procedures we enact relating to safeguard measures.

Senator Enrile. That is correct, Mr. President.

Senator Tatad. I simply want to put this on the *Record*.

Thank you very much, Mr. President.

The Presiding Officer [Sen. Flavier]. Thank you, Mr. Minority Leader, because my amendment has an antecedent on this provision.

Senator Tatad. In view of this very firm position of the sponsor on this particular issue, I will withdraw my proposal having spread into the *Record* my misgivings about it.

Senator Enrile. I would like to thank the Majority Leader.

The Presiding Officer [Sen. Flavier]. Thank you very much, Mr. Majority Leader. I am glad because my amendment has an antecedent and it is the part that we are about to delete. So may I continue.

My amendment is on line 14. After the words "domestic industry," we put a colon (:) and add the following: *PROVIDED, THAT THIS QUANTITATIVE RESTRICTION SHALL NOT BE USED FOR IMPORTED NON-AGRICULTURAL AND AGRICULTURAL RAW MATERIALS NOT PRODUCED LOCALLY, OR IF PRODUCED LOCALLY BUT NOT IN SUFFICIENT QUANTITIES TO MEET LOCAL DEMANDS.*

Senator Enrile. The amendment is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. I would like to thank the sponsor.

Senator Osmena (S). Mr. President, may I just ask some clarificatory questions of the presiding officer and the proponent of this amendment.

First, could we just go over again the amendments on line 3? Do we bracket [] the words "quantitative restriction" on line 3?

Senator Enrile. No, Mr. President.

Senator Osmena (S). So this is a new type of amendment?

Senator Enrile. Yes, Mr. President. It is an insertion between...

Senator Osmena (S). Insertion after the words "domestic industry"?

Senator Enrile. Before the word "THE".

Senator Osmena (S). I see. May I just kindly request the proponent to restate his amendment.

The Presiding Officer [Sen. Flavio]. *PROVIDED, THAT THIS QUANTITATIVE RESTRICTION SHALL NOT BE USED FOR IMPORTED NONAGRICULTURAL AND AGRICULTURAL RAW MATERIALS NOT PRODUCED LOCALLY, OR IF PRODUCED LOCALLY BUT NOT IN SUFFICIENT QUANTITIES TO MEET LOCAL DEMANDS.*

Senator Enrile. In other words, Mr. President, in simple terms, what the amendment suggests is that we must be very, very benign in the handling of raw material imports. We will not use quantitative restrictions unless there is enough raw material production in the country to meet the demand.

Senator Osmena (S). Mr. President, my first question would be in this manner: For agricultural products, these are all raw materials. I mean, practically every agricultural product that we import into this country are considered almost raw like rice, sugar, washed sugar, refined sugar. Are we not going to use this for sugar and coffee beans? Is that the intent?

Senator Enrile. No, Mr. President, we will.

Senator Osmena (S). From my reading, Mr. President, the amendment states that QR shall not be used for imported raw materials.

Senator Enrile. Nonagricultural imported raw materials. That was...

Senator Osmena (S). It is just nonagricultural now. It does not affect agriculture.

Senator Enrile. But the Chair included agricultural.

Senator Osmena (S). I must object also. Let me give an example to the presiding officer. There are substitutable products. Now, for example, the base for our livestock feed in this country is yellow corn. That is what we produce locally. But we can import feed wheat, soya beans, barley which would take the place of yellow corn. So, if we use the phrase "not produced locally", we might think that it is not in competition with the producer or the yellow corn farmer but it actually is.

The Presiding Officer [Sen. Flavier]. Do I hear the gentleman say that if I agree to the removal of the word "agricultural", he would accept the amendment?

Senator Osmena (S). Well, I will not accept the amendment unless the word "raw material" is also removed. And again, I will tell my colleagues why. I know where this proposed amendment emanated from. Now, they are the downstream producers of, say, steel industry. So, they want to make sure that there will be no quantitative restrictions on the raw material for steel. I agree. But why should there be now a quantitative restriction on the processed products? Because there are more processors down the value chain.

So, if we are going to remove quantitative restriction, let us remove it for everything in the nonagricultural sector, but not protect the processors and only run after the raw material type. Remember, Mr. President, in the future, industries tend to change. And to put something by limiting and just favoring one sector as against another subsector may not be a wise move on our part.

Senator Guingona. Mr. President.

The Presiding Officer [Sen. Flavier]. The Minority Leader is recognized.

Senator Guingona. May we offer a compromise, Mr. President, which will state something like this: "Provided, however, in case of agricultural products where the tariff increase may not be sufficient to redress or prevent serious injury to the domestic industry, a quantitative restriction may be set."

Senator Osmena (S). Mr. President, that is exactly my proposed amendment--word for word.

Senator Guingona. Thank you.

The Presiding Officer [Sen. Flavier]. However, my concern is the nonagricultural.

Senator Osmena (S). Which is why we are removing... we had to bracket [] on line 13, Mr. President, "AND/OR A QUANTITATIVE RESTRICTION."

Senator Guingona. Mr. President, I have the Floor, so I might as well say that as far as Section 5 is concerned, we have agreed to the amendment of Sen. Serge Osmena. And to save time, I am furnishing copies of our proposal as regards Sections 6, 7 and 9 to both sponsors for their consideration.

The Presiding Officer [Sen. Flavier]. If the distinguished gentleman is ready with the copies, that will be most welcome because it will hasten our process.

Senator Enrile. We are ready, Mr. President.

The Presiding Officer [Sen. Flavier]. Yes, we did not suspend. The sponsor may proceed.

Senator Enrile. Mr. President, in view of the position of the distinguished proponent of this amendment, this representation would not have any objection if we will use the word "raw materials".

The Presiding Officer [Sen. Flavier]. So, it will read, "imported nonagricultural and agricultural" If we remove "raw materials," what does it indicate then? Could the gentleman help us?

Senator Osmena (S). My suggestion is to remove the words "raw materials".

The Presiding Officer [Sen. Flavier]. Yes, my question is: How does it read then?

Senator Osmena (S). May I just read the entire thing as suggested by Senator Guingona because we have exactly the same amendment.

OSMENA-GUINGONA-FLAVIER AMENDMENT

Such measures SHALL take the form of A tariff increase EITHER AD VALOREM OR SPECIFIC to be paid through cash bond. Bracket [] the phrase "unless that would not be AND/OR A QUANTITATIVE RESTRICTION." I am sorry, no period (.) after the words "cash bond." Then continue: "to be paid through A cash bond SET AT A LEVEL sufficient to redress or prevent injury to the domestic industry. PROVIDED, HOWEVER, IN THE CASE OF AGRICULTURAL PRODUCTS WHERE THE TARIFF INCREASE MAY NOT BE SUFFICIENT TO REDRESS OR PREVENT SERIOUS INJURY TO THE DOMESTIC INDUSTRY, A QUANTITATIVE RESTRICTION MAY BE SET."

So, there is no mention of "raw material." It covers all agricultural products, and it does not cover any non-agricultural product.

Senator Enrile. If the proponent of the amendment will accept that amendment to his proposed amendment, this representation will accept the amendment.

The Presiding Officer [Sen. Flavio]. How about the nonagricultural? Will it be entirely out of the picture?

Senator Osmena (S). It will not be protected by a quantitative restriction.

Senator Enrile. There will be no quantitative restrictions, all tariffication.

The Presiding Officer [Sen. Flavio]. If the sponsor is comfortable with that, I will have no objection.

Senator Enrile. I will accept the amendment of the Chair, as amended by the distinguished Senator from Cebu, so that I will read this then.

On page 11, line 11 will read:

"Such measures SHALL take the form of A tariff increase EITHER AD VALOREM OR SPECIFIC OR BOTH" --that was the amendment of the distinguished Senator from Catanduanes" "to be paid through cash bond, et cetera."

Can the gentleman please restate the additional wordings after that

Senator Osmena (S). Yes, Mr. President.

"Such measures SHALL take the form of A tariff increase EITHER AD VALOREM OR SPECIFIC OR BOTH to be paid through cash bond SET AT A LEVEL sufficient to redress or prevent injury to the domestic industry. PROVIDED, HOWEVER, THAT IN THE CASE OF AGRICULTURAL PRODUCTS WHERE THE TARIFF INCREASE MAY NOT BE SUFFICIENT TO REDRESS OR TO PREVENT SERIOUS INJURY TO THE DOMESTIC INDUSTRY, A QUANTITATIVE RESTRICTION MAY BE SET."

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

OSMENA (S) AMENDMENTS

Senator Osmena (S). Still on page 11, line 22. May I add an additional paragraph that goes as follows:

WHEN THE PROVISIONAL SAFEGUARD MEASURE IS IN THE FORM OF A TARIFF INCREASE, SUCH INCREASE SHALL NOT BE SUBJECT TO THE MAXIMUM LEVEL OF 100% OF THE EXISTING TARIFF RATE AS SET FORTH IN SECTION 401 (A) OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES.

Senator Enrile. It is accepted, Mr. President.

In other words, we are not applying the limitation on the flexible tariff clause power of the President.

Senator Osmena (S). Yes, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). May I add the Section 9, Mr. President, regarding Formal Investigation?

The Presiding Officer [Sen. Flavio]. What page would that be?

Senator Osmena (S). Because Section 9 is bracketed on page 11, line 23. So, may I introduce a new Section 9.

Senator Enrile. Go ahead, please.

Senator Osmena (S). *FORMAL INVESTIGATION.* WITHIN FIVE WORKING DAYS FROM RECEIPT OF THE REQUEST FROM THE SECRETARY, THE COMMISSION SHALL PUBLISH A NOTICE OF THE COMMENCEMENT OF THE INVESTIGATION AND PUBLIC HEARINGS WHICH SHALL AFFORD INTERESTED PARTIES OF CONSUMERS AN OPPORTUNITY TO BE PRESENT OR TO PRESENT EVIDENCE OR TO RESPOND THE PRESENTATION OF OTHER PARTIES AND CONSUMERS AND OTHERWISE BE HEARD. EVIDENCE AND POSITIONS WITH RESPECT TO THE IMPORTATION OF THE SUBJECT ARTICLES SHALL BE SUBMITTED TO THE COMMISSION WITHIN FIFTEEN (15) DAYS AFTER THE INVESTIGATION. THE COMMISSION SHALL COMPLETE---scratch that---THIRTY (30) DAYS....

Senator Enrile. What is to be scratched? The Commission?

Senator Osmena (S). No, Mr. President, forget the scratch. This is the next line. The next line shall read: THE COMMISSION SHALL COMPLETE ITS INVESTIGATION AND SUBMIT ITS REPORT TO THE SECRETARY WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE REFERRAL FROM THE SECRETARY.

Senator Enrile. Thirty days.

Senator Osmena (S). Thirty (30) days instead of 120 days, Mr. President.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). May we introduce a new Section 10 on Inspection of Evidence?

The Presiding Officer [Sen. Flavio]. Please proceed.

Senator Osmena (S). *INSPECTION OF EVIDENCE.* - THE COMMISSION SHALL MAKE AVAILABLE FOR INSPECTION BY INTERESTED PARTIES COPIES OF ALL EVIDENCE SUBMITTED ON OR BEFORE THE RELEVANT DUE DATE. *PROVIDED,* HOWEVER, THAT ANY INFORMATION WHICH IS BY NATURE CONFIDENTIAL OR WHICH IS PROVIDED ON A CONFIDENTIAL BASIS SHALL, UPON CAUSE BEING SHOWN, BE TREATED AS SUCH BY THE COMMISSION. SUCH INFORMATION SHALL NOT BE DISCLOSED WITHOUT PERMISSION OF THE PARTIES SUBMITTING IT. PARTIES PROVIDING CONFIDENTIAL INFORMATION MAY BE REQUESTED TO FURNISH NONCONFIDENTIAL SUMMARIES THEREOF OR IF SUCH PARTIES INDICATE THAT SUCH INFORMATION CANNOT BE SUMMARIZED, THE REASONS WHY A SUMMARY CANNOT BE PROVIDED. *PROVIDED,* FURTHER, THAT IF THE COMMISSION FINDS THAT A REQUEST FOR CONFIDENTIALITY IS NOT WARRANTED, AND IF THAT PARTY CONCERNED IS EITHER UNWILLING TO MAKE THE INFORMATION PUBLIC OR TO AUTHORIZE ITS DISCLOSURE IN GENERALIZED OR SUMMARY FORM, THE COMMISSION MAY DISREGARD SUCH INFORMATION UNLESS IT CAN BE DEMONSTRATED TO THEIR SATISFACTION FROM APPROPRIATE SOURCES THAT THE INFORMATION IS CORRECT.

Senator Enrile. It is accepted, Mr. President.

Senator Tatad. Mr. President.

The Presiding Officer [Sen. Flavio]. The Majority Leader is recognized.

Senator Tatad. I wonder if the distinguished sponsor of the amendment would accept a proposed amendment on lines 16 and 17 of his proposed amendment. Would he consent to the deletion after the word "SHOWN," the deletion of the words "BE TREATED AS SUCH BY THE COMMISSION. SUCH INFORMATION SHALL" so that we immediately connect the two sentences, and it will read: *PROVIDED,* HOWEVER, THAT ANY INFORMATION WHICH IS BY NATURE CONFIDENTIAL OR WHICH IS PROVIDED ON A CONFIDENTIAL BASIS SHALL, UPON CAUSE BEING

SHOWN, NOT BE DISCLOSED WITHOUT PERMISSION OF THE PARTIES SUBMITTING IT.

Senator Osmena (S). So we do not include the word " SHOWN" as bracketed?

Senator Tatad. The bracket begins after the word " SHOWN" , and the close bracket....

Senator Osmena (S). I have no objection, Mr. President.

Senator Enrile. May we get a restatement of the amendment again, Mr. President?

Senator Tatad. The proposed amendment, we are looking at the Sen. Serge Osmena paper now.

Senator Enrile. Yes.

Senator Tatad. On lines 16 and 17, after the word " SHOWN,"

The Presiding Officer [Sen. Flavio]. Lines 16 and 17, on what page, please?

Senator Tatad. On page 13, line 16 of the Osmena paper. On line 16, we open bracket ([) " (B)" and close bracket (]) SHALL so that after the deletion, the sentence will read:

Senator Enrile. I have no objection to that, Mr. President. I will accept the proposed amendment as amended by the Majority Leader.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Please proceed.

Senator Osmena (S). On page 12, line 24, may I insert a new section.

Senator Enrile. Mr. President, shall I bracket [] Section 10 beginning on line 8 ending on line 23 of the working draft?

Senator Osmena (S). No, Mr. President, it is retained.

Senator Enrile. It is retained--the Adjustment Plan..

Senator Osmena (S). The Adjustment Plan.

Senator Enrile. All right.

Senator Osmena (S). And then in the gentleman's copy, Section 11 is bracketed. May I introduce a new Section 11 covering the same topic.

Senator Enrile. Yes.

Senator Osmena (S). It is entitled: *DETERMINATION OF SERIOUS INJURY OR THREAT THEREOF*. * IN REACHING A POSITIVE DETERMINATION THAT THE INCREASE IN THE IMPORTATION OF THE PRODUCT UNDER CONSIDERATION IS CAUSING SERIOUS INJURY OR THREAT THEREOF TO A DOMESTIC INDUSTRY PRODUCING LIKE PRODUCTS OR DIRECTLY COMPETITIVE PRODUCTS, ALL RELEVANT FACTORS HAVING A BEARING ON THE SITUATION OF THE DOMESTIC INDUSTRY SHALL BE EVALUATED. THESE SHALL INCLUDE IN PARTICULAR, THE RATE AND AMOUNT OF THE INCREASE IN IMPORTS OR THE PRODUCTS CONCERNED IN ABSOLUTE AND RELATIVE TERMS, THE SHARE OF THE DOMESTIC MARKET TAKEN BY THE INCREASED IMPORTS, AND CHANGES IN THE LEVEL OF SALES, PRODUCTION, PRODUCTIVITY, CAPACITY UTILIZATION, PROFITS AND LOSSES, AND EMPLOYMENT.

SUCH POSITIVE DETERMINATION SHALL NOT BE MADE UNLESS THE INVESTIGATION DEMONSTRATES, ON THE BASIS OF OBJECTIVE EVIDENCE THE EXISTENCE OF THE CAUSAL LINK BETWEEN THE INCREASED IMPORTS OF THE PRODUCT UNDER CONSIDERATION AND SERIOUS INJURY TO THE DOMESTIC INDUSTRY. WHEN FACTORS OTHER THAN INCREASED IMPORTS ARE CAUSING INJURY, SUCH INJURY SHALL NOT BE ATTRIBUTED TO INCREASED IMPORTS.

End of the amendment.

Senator Enrile. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Enrile. That is Section 12, Mr. President.

Senator Osmena (S). Well, Mr. President, I leave it up to the Secretariat to renumber the sections. I am already lost.

Senator Enrile. Section 10, which appears on page 12 beginning from line 8 up to line 23, is now considered Section 11 and that the just accepted amendment of the distinguished Senator from Cebu will constitute Section 12.

The Presiding Officer [Sen. Flavio]. I take it that there will be a proper renumbering.

Senator Enrile. Yes.

The Presiding Officer [Sen. Flavier]. Please proceed.

Senator Osmena (S). On page 13--

Senator Enrile. No, page 10, Mr. President, of the working draft.

Senator Osmena (S). We are going back?

Senator Enrile. Recommendation of the Commission. Is the gentleman proposing Section 13?

Senator Osmena (S). No, it is on page 13.

Senator Enrile. Is it page 13 of the working draft?

Senator Osmena (S). Yes, page 13 of the gentleman's draft. On line 11, bracket [] all of Section 11 all the way up to page 14, line 11 also.

Senator Enrile. Page 14, line 11. All right.

Senator Osmena (S). And an additional Section numbered--I forgot it--dealing with Adoption of Definitive General Safeguard Measures.

Senator Enrile. Section 13.

The Presiding Officer [Sen. Flavier]. Can we act on the bracketing please? This is my impression. We are bracketing page 13, line 11.

Senator Enrile. Line 8, all the way to line 11.

The Presiding Officer [Sen. Flavier]. On line 11 on page 14?

Senator Enrile. Yes, Mr. President.

The Presiding Officer [Sen. Flavier]. And that is accepted by the sponsor? Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (S). May we introduce a new section which deals with the ADOPTION OF DEFINITIVE MEASURES. It will read as follows: UPON ITS POSITIVE FINAL DETERMINATION, THE COMMISSION SHALL RECOMMEND TO THE SECRETARY AN APPRECIATIVE DEFINITIVE MEASURE IN THE FORM OF:

- A) AN INCREASE IN, OR IMPOSITION OF, ANY DUTY ON THE IMPORTED ARTICLE;

- B) A DECREASE IN THE TARIFF-RATE QUOTA ON THE ARTICLE;
- C) A MODIFICATION OR IMPOSITION OF ANY QUANTITATIVE RESTRICTION ON THE IMPORTATION OF THE ARTICLE INTO THE PHILIPPINES;
- D) ONE OR MORE APPROPRIATE ADJUSTMENT MEASURES, INCLUDING THE PROVISION OF TRADE ADJUSTMENT ASSISTANCE;
- E) ANY COMBINATION OF ACTIONS DESCRIBED IN SUB-PARAGRAPHS (A) TO (D).

THE COMMISSION MAY ALSO RECOMMEND THE INITIATION OF INTERNATIONAL NEGOTIATIONS TO ADDRESS THE UNDERLYING CAUSE IN THE INCREASE OF IMPORTS OF THE ARTICLE OR OTHERWISE TO ALLEVIATE THE INJURY OR THREAT; OR IMPLEMENT ANY OTHER ACTION AUTHORIZED UNDER THE LAW THAT IS LIKELY TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION.

THE GENERAL SAFEGUARD MEASURE SHALL BE LIMITED TO THE EXTENT OF REDRESSING OR PREVENTING THE INJURY AND TO FACILITATE ADJUSTMENT BY THE DOMESTIC INDUSTRY FROM THE ADVERSE EFFECTS DIRECTLY ATTRIBUTED TO THE INCREASED IMPORTS. *PROVIDED*, HOWEVER, THAT WHEN A QUANTITATIVE IMPORT RESTRICTION IS USED, SUCH A MEASURE SHALL NOT REDUCE THE QUANTITY OF IMPORTS BELOW THE AVERAGE IMPORTS FOR THE THREE (3) PRECEDING REPRESENTATIVE YEARS. THE APPLICATION OF THE GENERAL SAFEGUARD MEASURES SHALL BE GOVERNED BY THE PROVISIONS OF ARTICLE XIX OF GATT 1974 AND THE WTO AGREEMENT ON SAFEGUARDS.

A GENERAL SAFEGUARD MEASURE SHALL NOT BE APPLIED TO A PRODUCT ORIGINATING FROM A DEVELOPING COUNTRY IF ITS SHARE OF TOTAL IMPORTS OF THE PRODUCT IS LESS THAN THREE PERCENT (3%). *PROVIDED*, HOWEVER, THAT DEVELOPING COUNTRIES WITH LESS THAN THREE PERCENT (3%) SHARE COLLECTIVELY FOR NOT MORE THAN NINE PERCENT (9%) OF TOTAL IMPORTS.

THE DECISION IMPOSING A GENERAL SAFEGUARD MEASURE, THE DURATION OF WHICH IS MORE THAN ONE (1) YEAR, SHALL INCLUDE A SCHEDULE SPECIFYING THE GRADUAL LIBERALIZATION OF THE SAID MEASURE AT REGULAR INTERVALS WITHIN THE ALLOWABLE TIME FRAME AS SPECIFIED IN THIS ACT FOR PROVISIONAL, DEFINITIVE, AND EXTENDED GENERAL SAFEGUARD MEASURES, AS WELL AS PROCEDURE FOR INTERMEDIATE REVIEW. THE INDUSTRY BENEFITING FROM THE APPLICATION OF A GENERAL SAFEGUARD MEASURE SHALL BE REQUIRED TO SHOW POSITIVE ADJUSTMENT WITHIN THE ALLOWABLE PERIOD. A GENERAL SAFEGUARD MEASURE SHALL BE TERMINATED WHEN THE BENEFITING INDUSTRY FAILS TO SHOW ANY IMPROVEMENT, AS MAY BE DETERMINED BY THE SECRETARY.

THE SECRETARY SHALL DETERMINE WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF THE REPORTS, EITHER BY VIRTUE OF HIS OFFICE OR IN CONSULTATION WITH AN APPROPRIATE CABINET COMMITTEE, THE MECHANISM FOR THE IMPLEMENTATION OF THE DEFINITIVE GENERAL SAFEGUARD MEASURE THAT SHALL BE ADOPTED.

FOR THIS PURPOSE, THE APPROPRIATE CABINET COMMITTEE SHALL BE COMPOSED OF THE SECRETARIES OF TRADE AND INDUSTRY, AGRICULTURE, FINANCE, SOCIO-ECONOMIC PLANNING, AND THE CHAIRMAN OF THE TARIFF COMMISSION. ACCORDINGLY, THE SECRETARY SHALL ISSUE A WRITTEN INSTRUCTION TO THE HEADS OF THE CONCERNED GOVERNMENT AGENCIES TO IMPLEMENT THE APPROPRIATE GENERAL SAFEGUARD MEASURE AS DETERMINED.

IN THE EVENT OF A NEGATIVE FINAL DETERMINATION, OR IF THE CASH BOND IS IN EXCESS OF THE DEFINITIVE SAFEGUARDS DUTY ASSESSED, THE SECRETARY SHALL IMMEDIATELY ISSUE, THROUGH THE SECRETARY OF FINANCE, A WRITTEN INSTRUCTION TO THE COMMISSIONER OF CUSTOMS, AUTHORIZING THE RETURN OF THE CASH BOND, OR THE REMAINDER THEREOF, AS THE CASE MAY BE, PREVIOUSLY COLLECTED AS PROVISIONAL GENERAL SAFEGUARD MEASURE WITHIN TEN (10) DAYS FROM THE DATE A FINAL DECISION HAS BEEN MADE. PROVIDED, THAT THE GOVERNMENT SHALL NOT BE LIABLE FOR ANY INTEREST ON THE AMOUNT TO BE RETURNED. THE SECRETARY SHALL NOT ACCEPT FOR CONSIDERATION ANOTHER PETITION FROM THE SAME INDUSTRY, WITH RESPECT TO THE SAME IMPORTS OF THE PRODUCT UNDER CONSIDERATION WITHIN ONE (1) YEAR AFTER THE DATE OF RENDERING SUCH A DECISION.

WHEN THE DEFINITIVE SAFEGUARD MEASURE IS IN THE FORM OF A TARIFF INCREASE, SUCH INCREASE SHALL NOT BE SUBJECT TO THE MAXIMUM LEVEL OF ONE HUNDRED PERCENT (100%) OF THE EXISTING TARIFF RATE AS SET FORTH IN SECTION 401 (A) OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES.

Thank you, Mr. President.

Senator Tatad. Mr. President, before the sponsor accepts, may I ask a few questions.

The Presiding Officer [Sen. Flavio]. With the permission of the two gentlemen, please proceed.

Senator Tatad. Mr. President, on the issue of raising tariffs, this authority is usually vested in Congress, sometimes in the President. In the particular proposal, is it sought to be vested in the Secretary?

Senator Osmena (S). Yes, Mr. President.

Senator Enrile. That is right.

Senator Osmeña (S). Yes, Mr. President. Can the Secretary...

Senator Enrile. Under Section 401 of the Tariff Code, Mr. President, when Congress is not in session, the President is authorized to increase or decrease tariff levels within a certain range.

Senator Tatad. Yes.

Senator Osmeña (S). But remember that in the beginning, the first line says, "That the Commission shall recommend to the Secretary...."

Senator Enrile. Yes. And this provision now, and I agree with it, suggests that we should delegate this power considering that it is an emergency power to the concerned Secretary and bring it out of the limitations of the flexible tariff clause known as Section 401 of the Tariff and Customs Code. This means that the Secretary concerned will then exercise the power to increase or decrease the tariff without having to come to Congress even while Congress is in session or not.

Senator Tatad. I simply wanted that spread into the *Record* because, first, it is a curious point which my layman's mind is sufficiently excited about.

The second point I would like to pose to the distinguished sponsor, the proponent of the proposed amendment has to do with the proposal to include a schedule, specifying the gradual liberalization of a particular safeguard measure if that measure runs beyond one year. The usual practice--I think some provisions of the multilateral trade agreements sustained this--is for the country or the government imposing the safeguard measure or applying the safeguard measure to undertake a review at regular intervals. The purpose is to liberalize the safeguard measure. But for us to put in a schedule of liberalization is probably to weaken our position, it telegraphs our position at once.

So this is a question of whether this is a wise thing to do or not--whether we should put this in the law so that we are obliged to put a schedule of liberalization whatever happens. Because as we are all aware, safeguard measure which may last for four years may be extended for another four years if the causes continue.

Senator Enrile. Plus two years in the case of developing countries.

Senator Tatad. And in the case of developing countries, there is a further extension of two years which means, the general limit is eight years. But if it is a developing country, it can go all the way up to 10 years.

But if we put in the law this schedule of liberalization, perhaps, we are weakening our case.

This is my only concern, Mr. President. I hope the distinguished proponent of the amendment will consider this.

The Presiding Officer [Sen. Flavier]. What does Senator Osmeña say?

Senator Osmeña (S). Mr. President, I am glad that the Majority Leader changed his mind. First, he wanted to remove quantitative restriction which would strengthen the agricultural sector, and now he wants to remove the weakness by saying, "Let us remove the liberalization." But unfortunately...

Senator Tatad. No, no, I am trying to adhere to the text of the international agreements to which we have adhered.

Senator Osmeña (S). Yes. The thing is

Senator Tatad. It is not a matter of my mind changing from one minute to the other.

Senator Osmeña (S). Well, it is our interpretation of the international agreement, is it not?

Senator Tatad. And that is an unparliamentary remark which I would like stricken out of the *Record*.

Senator Osmeña (S). Well, there was no offense meant, and if offense was taken, I assure the member involved that we did not mean to cause offense. But in any case, as far as the staff of the Department of Agriculture is concerned... It says, No. 4 under the WTO Agreement of Article VII, "in order to facilitate adjustment in a situation, over one year, the member applying measures shall progressively liberalize it at regular intervals". So we are just putting that in the law.

Senator Enrile. Actually, Mr. President, if I may intervene, this schedule here could take into account the periods provided in the Treaty and it could state that every two years, there will be a periodic review of the safeguard measures adopted by the importing country or whatever time frame may be used.

Senator Tatad. Mr. President, I believe this is a very important issue which we should sleep on. I move that we suspend consideration of Senate Bill No. 2033.

The Presiding Officer [Sen. Flavio]. There is a motion to suspend consideration of Senate Bill No. 2033. Is there any objection?

Senator Osmena (S). I just want to put into the *Record*, Mr. President, that we could finish this tonight because this was the only long section and we will revisit this section alone tomorrow.

Senator Tatad. But aside from this particular issue, Senator Roco made a reservation to propose certain amendments and he is not here now.

Senator Osmena (S). Yes, but Mr. President, since this representation is here and the staff has been here the whole day, may I just suggest that we finish with the amendments and then tomorrow we give the time to Senator Roco to propose his amendments and to discuss this particular...

SUSPENSION OF SESSION

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

The Presiding Officer [Sen. Flavio]. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 8:07 p.m.

RESUMPTION OF SESSION

At 8:12 p.m., the session was resumed with the Senate President, Hon. Franklin M. Drilon, presiding.

The President. The session is resumed.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

MOTION OF SENATOR TATAD

(To Insert All the Proposed Osmena (S) Amendments
Into S. No. 2033)

Senator Tatad. Mr. President, before we suspended our session, there was a proposed long amendment which in our view would need a little more time to study. But following the procedure we have adopted on the Power bill and with the consent of the distinguished sponsor and the Minority Leader, may we be allowed to insert all the proposed Osmeña (S) amendments into this bill, consider them read so that tomorrow morning, we would have a clean copy of the same, and we would have the opportunity to revisit and allow also

the other senators to introduce their own proposed amendments.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, the sponsor has no objection to that procedure, provided the Chair will instruct the legislative staff to prepare a clean copy inserting the Osmena amendments, including the other amendments already made, in their proper places for the production of a clean copy with appropriate renumbering and reparagraphing of the entire text of the bill.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. I would just like to inquire if the amendment on page 7, line 19, for the Secretary to make a preliminary determination has been reduced to 15 days with the request that he consider a more reasonable period, perhaps 30 days, and the Tariff Commission on page 13, line 8, is required to complete its investigation and submit its report to the Secretary within 30 days from receipt of the referral by the Secretary because we are guided by the reasonable period.

Senator Osmeña (S). May I just react, Mr. President.

The President. Sen. Serge Osmeña is recognized.

Senator Osmeña (S). Mr. President, sometimes, 15 days can make a great deal of difference. That can make a difference between 200,000 metric tons of sugar coming into our ports or 150 containers of chicken leg quarters. In other words, these are emergency actions and for us to put in the law or to tie the hands of the Secretary from acting in a speedier manner may just defeat the purpose of the provisional action.

May I suggest that we trust the Secretary to know enough facts. Because these are facts--and we are talking mainly about agriculture here--that are constantly being monitored by the Department of Agriculture staffers and they know, more or less, when to start moving on any particular issue. So, why do we not trust the Secretary of Agriculture to use utmost discretion in being fair to everybody involved?

Senator Guingona. I understand the sentiments of the sponsor. My only request is for him to consider the fact that sometimes some of the parties may not be notified

because they are out, or something like that. At any rate, we leave that to the discretion of the sponsor.

Senator Osmeña (S). Just trusting the Secretary and I think the Secretary will not....

The President. There is a motion to consider as read into the *Record* the remaining amendments of Sen. Sergio R. Osmeña III, which amendments are contained in a document now in the possession of the Secretary.

With the consent of the Chamber, we will proceed in that manner and the Secretariat is directed to prepare a revised version of Senate Bill No. 2033 which will now be the basis for the continuation of the period of interpellations.

The Chair, however, notes that all the previous amendments, other than the last amendment proposed by Sen. Sergio Osmeña, which were already accepted and approved by the Chamber, will stand and only that long amendment will be the subject....

Senator Enrile. No, the rest of the amendments outside of those that have already been approved by the Chamber will now be, with the permission of the Chair, transposed into a revised version as if these amendments were taken up today in this Chamber and read into the *Record*.

The President. But not yet adopted.

Senator Enrile. But not yet adopted.

The President. With that understanding, the motion is approved, if there is no objection. *[There was none.]*

SUSPENSION OF CONSIDERATION OF S. NO. 2033

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2033.

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

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session until ten o'clock tomorrow morning.

The President. Is there any objection? *[Silence]* There being none, the session is suspended until ten o'clock tomorrow morning, June 7, 2000.

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Senator Tatad. Mr. President, I understand that copies of this Report are being distributed now to the senators.

With the consent of the Chamber, I move that the Report be considered as read and adopted by the Chamber.

SUSPENSION OF SESSION

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

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

It was 8:26 p.m.

RESUMPTION OF SESSION

At 8:27 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

MANIFESTATION OF SENATOR TATAD (Motion to Consider and Adopt the Conference Committee Report on S. No. 15921/H. No. 518 Withdrawn)

Senator Tatad. Mr. President, it has been brought to my attention that the text has some technical defects at this point which are being addressed. I therefore withdraw my earlier motion.

The President. The motion is withdrawn.

BILL ON SECOND READING S. No. 2033 - Safeguard Measures Act of 2000 (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2033.

The President. Is there any objection? [Silence]
There being none, resumption of consideration of Senate Bill
No. 2033 is now in order.

Senator Tatad. We are still in the period of
amendments. Yesterday, following the procedure we adopted
on the power bill, we agreed to spread in the *Record* certain
proposed amendments without acting on them. I move that we
now make a final pass on the bill so that we can approve all
the amendments previously unacted upon.

For this purpose, I ask that the distinguished sponsor,
the honorable Sen. Juan Ponce Enrile, be recognized.

The President. Sen. Juan Ponce Enrile is recognized.

Senator Enrile. Thank you, Mr. President.

Section 1, no amendment.

Section 2. I accepted already all the amendments in
Section 2.

Section 3. I accepted all the amendments proposed in
Section 3.

Section 4. On page 2, I accepted all the amendments in
Section 4.

Section 5. I accepted all the amendments in Section
5.

Section 6. I accepted the amendments in Section 6.

Section 7. I accepted all the amendments in Section 7.

Section 8. On Provisional Measures, I accepted all the
amendments in Section 8. I just want to insert a few
corrections, if I may.

With the permission of the Chamber...

The President. Before the distinguished gentleman proceeds, just for the record, the copy that is being referred to is an amended copy as of June 6, 2000 with the asterisk?

Senator Enrile. That is correct, Mr. President, amended copy as of June 6, 2000.

The President. With an asterisk?

Senator Enrile. There is no asterisk, Mr. President.

The President. Can we ask for a minute's suspension to clarify all of these?

SUSPENSION OF SESSION

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

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

It was 8:30 p.m.

RESUMPTION OF SESSION

At 8:31 p.m., the session was resumed.

The President. The session is resumed.

Senator Enrile. We will follow this copy with an asterisk, Mr. President.

Mr. President, as I was saying, I have accepted the amendments to Section 1 of the bill and these were approved by the Chamber. I have accepted the amendments to Section 2 of this measure and these have been approved by the Chamber. I have accepted the amendments to Section 3 of this measure

and these have been approved by the Chamber. That is also true in the case of Section 4. I have accepted all the amendments to Section 4 and these were approved by the Chamber. I have likewise accepted all the amendments to Section 5 and these were approved by the Chamber. I have accepted all the amendments to Section 6 and these were accepted and approved by the Chamber. I have likewise accepted all the amendments to Section 7.

The President. How about in Section 6?

Senator Enrile. I have accepted all the amendments to Section 6 and Section 7, and these were approved by the Chamber.

Now, in the case of Section 8, Mr. President, I have accepted all the amendments to Section 8 and these were approved by the Chamber. I just wish to make some last-minute correction to clarify the intent of this section on line 10, Mr. President.

The President. On what page?

ENRILE AMENDMENTS

Senator Enrile. On page 13, I propose to bracket [] the word "INDUSTRY", and in lieu thereof, insert the words PRODUCER OR PRODUCERS. And then after the word MAY on line 10, before the word SET, insert the word BE, MAY BE SET.

The President. Is there any objection to the proposed amendments on line 10? To read: delete the word INDUSTRY and substitute the same with....

Senator Enrile. DOMESTIC "PRODUCER OR PRODUCERS".

The President. ...PRODUCER OR PRODUCERS and insert the word BE between MAY and SET.

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

Senator Enrile. On line 21, Mr. President, after the word SUBJECT and before the preposition TO, may I propose to insert the phrase OR LIMITED so that this phrase shall be read: "SUBJECT OR LIMITED TO THE MAXIMUM LEVEL OF ONE HUNDRED PERCENT (100%)"

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

Senator Enrile. Mr. President, I have accepted and the Chamber approved all the proposed amendments to Section 9.

I have accepted and the Chamber approved all the amendments to Section 10.

May I request that the record indicate where we stopped the last time, Mr. President?

SUSPENSION OF SESSION

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

It was 8:36 p.m.

RESUMPTION OF SESSION

At 8:37 p.m., the session was resumed.

The President. The session is resumed.

In reply to the sponsor, the Chair advises that on the basis of the *Record*, the Chamber has not yet formally approved the amendments starting on Section 13 on page 17.

Senator Enrile. So I have accepted and the Chamber approved the amendments to Section 11, Mr. President.

I have accepted and the Chamber approved the amendments to Section 12.

Therefore, we are now on Section 13. I will now accept the amendments to Section 13.

The President. The amendments to Section 13 found on pages 17 and 18 of the bill have been accepted by the sponsor. Is there any objection? [Silence] There being none, the amendments are approved.

Senator Enrile. Mr. President, I now accept the amendment to Section 14 of this bill found on page 20, all the way to line 5 of Section 21.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

Senator Roco. Are we referring to the one on page 24?

Senator Enrile. It is on page 20.

The President. We are just on page 20.

Senator Roco. There is Section 14 on page 24. Sorry, Mr. President.

Senator Enrile. That is bracketed, Mr. President.

The President. On page 20, there is also an underscored paragraph from lines 11 to 15.

Senator Enrile. Lines 11 to 15. Mr. President, I think that underscored provision should be bracketed [] because that is a part of the old Section 12 which has been bracketed.

The President. All right. So, lines 11 to 15 should also be bracketed?

Senator Enrile. Yes, Mr. President. To explain, the bracketing [] shall start from page 18, line 24, before the word "SEC." and the figure "12" all the way to, or it embraces all of page 19 and all the way to line 15 of page 20.

The President. May I invite the attention of the sponsor that on page 19, there is a close (]) bracket on line 7, after the word "Safeguards".

Senator Enrile. Line?

The President. On page 19, line 7, there is a bracket [] after the word "Safeguards", in other words, it would indicate that Section 12, from page 18, on line 24....

Senator Enrile. I stand corrected, Mr. President. So, the bracketing [] will start on line 24, page 18 before the word "SEC" and the figure "12" all the way to line 7, page 19.

The President. Is this proposed to be deleted?

Senator Enrile. Yes, Mr. President.

The President. Is there any objection? *[Silence]*

There being none, the amendment is approved.

Senator Enrile. From line 8, page 19 to....

Senator Tatad. Where are we now, Mr. President?

The President. Page 19, line 8.

Senator Enrile.to line 15 on page 21 will be a part of Section 13.

The President. All right.

Senator Enrile. So that is Section 13.

The President. So that the amendment on page 20, from lines 11 to 15 is a part of Section 13 and must be adopted.

Senator Enrile. That has been accepted and already approved by the Chamber.

Senator Tatad. No, I am sorry. I do not believe that it has been approved.

The President. So, we now go through the formal approval of lines 11 to 15 on page 20.

Senator Tatad. No, we are still on page 19.

The President. All right. Go ahead.

TATAD AMENDMENTS

Senator Tatad. To the best of my understanding, this is where we broke last night. I was proposing some questions and I was asked by the gentleman from Cebu to introduce an appropriate amendment, and I would like to do so now. On page 19, from line 14 to....

Senator Enrile. Line 14 to?

Senator Tatad. I am trying now to locate this particular line, from line 14 to line 17. I propose the deletion of the words beginning with "include" after the word "shall" on line 14 up to the period (.) after the word "review" on line 17, and in lieu thereof, I propose to insert the following words: BE REVIEWED AT REGULAR INTERVALS FOR PURPOSES OF LIBERALIZING OR REDUCING ITS INTENSITY. So that the sentence as amended will now read as

follows: "The decision imposing a general Safeguard Measure, the duration of which is more than one year, shall BE REVIEWED AT REGULAR INTERVALS FOR PURPOSES OF LIBERALIZING OR REDUCING ITS INTENSITY."

The reason for this proposal, Mr. President, is that not only because this is the common practice now as provided for in the agreements but also because while it allows us to liberalize gradually whatever is the General Safeguard Measure initially, it does not commit us beforehand to what we are going to do at certain stages. So, the liberalization would be the result of the review process rather than because of a commitment that we had made beforehand.

Senator Enrile. It is accepted, Mr. President.

The President. Thank you very much, Mr. President.

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

Senator Enrile. And then I accept the rest of the amendments to Section 13, Mr. President.

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

ENRILE AMENDMENT

Senator Enrile. May I make a correction on line 13 to be consistent, Mr. President. After the word "SUBJECT", I propose to insert the phrase OR LIMITED. So that the sentence will be: SUCH INCREASE SHALL NOT BE SUBJECT OR

LIMITED TO THE MAXIMUM LEVEL OF ONE HUNDRED PERCENT (100%),
et cetera.

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

Sen. Raul S. Roco is recognized.

Senator Roco. Were we referring to the bracketed
Section 13?

The President. No.

Senator Enrile. No. Well, this is not it. We are now
on page 20, Section 14, line 16.

Senator Roco. It does not seem to tally in the--

Senator Enrile. May we request the Secretariat to give
the distinguished gentleman a copy...

Senator Roco. No, no. So, it is Section 14, "CONTENTS
OF THE REPORT BY THE COMMISSION".

Senator Enrile. That is correct, Mr. President. As I
said, I am accepting the amendments to Section 14.

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

Senator Enrile. Mr. President, I am adopting all the
amendments to Section 15 appearing from line 28, page 26.

The President. Wait, wait.

Senator Roco. What happened to page 21?

The President, Yes, page 21?

Senator Enrile. On page 21, Mr. President, those are
bracketed items.

Senator Roco. So, what does that mean, Mr. President?

Senator Enrile. Section 13 is bracketed.

Senator Roco. So, these will be proposed?

Senator Enrile. These are deleted.

Senator Roco. So, these are all--no, because it says:
UNDERScoreD WORDS - PROPOSED AMENDMENTS.

Senator Enrile, Yes, but....

Senator Roco. So....

Senator Enrile. Then, I will now read this, Mr.
President, page by page.

The President. Yes, please. Can we start with page
21?

Senator Enrile. On page 21, delete all the words
beginning from lines 6 to 12, Mr. President.

The President. How about line....

Senator Enrile. As well as all the words from line 13
all the way to line 21 on page 21; from line 1 all the way
to line 29 of page 22; all the words from line 1 all the
way to line 30 on page 23; all the words from line 1 all the
way to line 29 on page 24; all the words from line 1 all the
way to line 29 of page 25; all the words from line 1 all the
way to line 27 of page 26.

Senator Roco. Everything is deleted.

The President. So, everything is deleted starting from
line 6 on page 21 up to line 27 on page 26.

Senator Roco. Just out of curiosity, Mr. President.

Why in heaven's name did the staff put it there?

Senator Enrile. Because we had three drafts, Mr.

Senator Roco. All right. So, it was just a carry

Senator Enrile. Yes, Mr. President.

Senator Roco. All right.

The President. Does the Chair hear any objection to the amendment accepted by the sponsor? [Silence] There being none, the amendment is approved.

Senator Enrile. Mr. President, I accept all the amendments to Section 15 found on lines 28, 29, and 30 of page 26; lines 1 to 29 of page 27; and lines 1 to 7 of page 28.

Senator Roco. Before we act on that, Mr. President.

I am not sure that this is the appropriate section but since it is entitled "LIMITATIONS ON ACTIONS", I had previously discussed this with the sponsor.

Can we in this section, or whatever appropriate section the sponsor may wish to put it, add guidelines that in whatever safeguard measure that may be undertaken or whatever action that may be undertaken, we should comply with at least two conditions because these are the limitations?

First, transparency of action, and we must not go into monopolistic tendencies, or--

Senator Enrile. Any kind of anticompetitiveness.

Senator Roco. --anticompetitive. That is No. 1.

Second, because of the effect on certain industries,

whether upward or downward, we must again put the nonimpairment clause. There are forward contracts that require imports--and these will apply also to the agricultural imports--and/or that require inputs from forward supply contracts. Generally, they may be good only for two years, anyway.

Senator Enrile. We can put that, Mr. President, if I may suggest--

Senator Roco. Yes, Mr. President.

Senator Enrile. --between line 7 and line 8 of page 28 as Item No. 5. And may I suggest that the distinguished proponent of the amendment formulate his proposed amendment.

I will accept it and it shall be carried as a part of the approved amendment of Section 15.

Senator Roco. Yes. Thank you, Mr. President.

So, subject to style, the fifth limitation is that all actions shall be transparent and shall not allow any anticompetitive or manipulative business device.

Senator Enrile. And?

Senator Roco. And shall respect--again, we will use this--pursuant to the nonimpairment clause of the Constitution--forward contracts.

Senator Enrile. Shall not impair existing contracts.

Senator Roco. Shall not impair. But I want to specify, Mr. President, the supply or the importation...

Senator Enrile. Existing supply contracts.

Senator Roco. Existing supply contracts. And this should also be reflected in the agricultural.

Senator Enrile. It is accepted, Mr. President.

Senator Roco. Thank you, Mr. President.

The President. Subject to style. The Roco amendment was accepted by the sponsor. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Roco. Thank you, Mr. President.

Senator Enrile. That will be an insertion between lines 7 and 8.

Now, I accept all the proposed amendments to Section 16, Mr. President.

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

Senator Enrile. Mr. President, I accept all the proposed amendments to Section 17 of the measure found from line 12 of page 28, all the way to line 2 of page 29.

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

Senator Enrile. Mr. President, I accept all the proposed amendments to Section 18 found on page 29, beginning with line 3, all the way to line 11.

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

Senator Enrile. Mr. President, I accept all the proposed amendments to Section 19 found on page 29, starting with line 12, all way to line 27 of page 30.

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Senator Flavier. Mr. President, there is a typographical error on page 30, line 7.

Senator Enrile. May we request the approval of the amendments first and then we go to the correction of the typographical error.

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

The President. Senator Flavier is recognized.

Senator Flavier. Thank you, Mr. President. On page 30, line 7, I understand the letter "C" there should be deleted but not the contents, because that is the second paragraph of Item B.

Senator Enrile. I accept it, Mr. President.

Then that will be a part of letter "B".

Mr. President, I accept all the amendments to Section 20, starting from line 28 on page 30, all the way to line 26 on page 31.

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

Senator Enrile. Mr. President, I accept all the amendments to Section 21, starting with line 27, page 31, all the way to line 21 of page 32.

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

Senator Flavier. Mr. President, another typographical error on page 32, line 13. The bracketed "No. 1" should be deleted but the contents should be retained.

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The President. What page?

Senator Flavier. On page 32, line 15, the "No. 1" should be deleted but not the contents.

Senator Enrile. Yes, and that should be aligned, not as a paragraph but as part of the entire paragraph B.

Senator Flavier. That is correct, Mr. President.

Senator Enrile. Mr. President, I accept all the amendments to Section 22, appearing from line 22, page 32, all the way to line 5, page 33.

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

Senator Roco is recognized. Does the gentleman wish to reconsider the....

Senator Roco. Yes. Are we now on page 32?

The President. We are on page 32. We have just approved the amendments from line 22 up to line 5 on page 33.

Senator Roco. Mr. President, we do not have to reconsider.

The President. All right.

Senator Roco. But again, if the sponsor would allow, can we also put a general provision? Because the special safeguard measure here is separate from the general ones already approved. So that separate section, maybe in the end, containing the same guidelines--the special safeguard measures, undertaken under this chapter shall be done with

transparency, shall not result in monopolistic or anticompetitive situations.

Senator Enrile. May I suggest, Mr. President, that if the gentleman wants to cover both general and special safeguards, that we provide a general provision at the very end of this measure. That in applying the general and special safeguards contained in this Act, then the gentleman can put--

Senator Roco. Then the standards of transparency...

Senator Enrile. --the restrictions that he has in mind will be provided.

ROCO AMENDMENTS

Senator Roco. Yes, Mr. President. Maybe we can just add it on page 37...Or a general provision as long as it covers both the general and the special under all the chapters. My only concern is, again, unless we have those three guidelines--transparency, no anti-competitive or monopolistic tendencies and respect for existing contracts--some industries will die.

Senator Enrile: Maybe we can put that, Mr. President, on page 39 before Section 33.

Senator Roco. If that is appropriate, yes, Mr. President.

Senator Enrile. So that we will reconsider our agreement that it will be inserted in...What page was that?

The President. On page 28.

Senator Enrile. I think, yes, page 28. Instead of that general provision being inserted, between line 7 and line 8 of page 28, I suggest that we make that provision as Section 33, between line 7 and line 8 of page 39.

Senator Roco. May we just call it GENERAL PROVISIONS to make it applicable to all instead of "MISCELLANEOUS PROVISIONS".

Senator Enrile. Yes, general provisions for...

Senator Roco. Under Chapter IV, it should not be "MISCELLANEOUS" but GENERAL PROVISIONS applicable to the whole Act.

Senator Enrile. Yes.

Senator Roco. If that is so, Mr. President, then it will be very good because that is the intent--to cover all aspects of the safeguard measures under those three broad limitations.

The President. All right. Is it acceptable to the sponsor, subject to style and placement?

Senator Enrile. Yes. Where did we stop? I forgot; I got lost.

The President. First, can we formally approve the Roco Amendment, subject to style and placement as accepted by the sponsor?

Senator Roco. Just for clarity, Mr. President. The proposed amendment shall be the new Section 33 and--

Senator Enrile. Then renumber the succeeding sections.

Senator Roco. --after renumbering, it shall provide the general limitations to all safeguards, whether general or special safeguards, under the different chapters, subject to three guidelines--transparency, no anti-competitive or monopolistic situations created and respect or nonimpairment of existing supply contracts or imports for inputs, or whatever the technical term may be.

Senator Enrile. Normally, supply contracts.

Senator Roco. Supply contracts, Mr. President.

Senator Enrile. It is accepted, Mr. President.

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

Senator Roco. Thank you, Mr. President.

Just a small editorial correction. The title of Chapter IV shall become GENERAL PROVISIONS.

Senator Enrile. Yes.

Senator Roco. If that is accepted, we can...

Senator Enrile. It is accepted, Mr. President. And may I request the distinguished gentleman from Camarines to prepare the provision.

Senator Roco. Just the title. Instead of "MISCELLANEOUS" because miscellaneous can lead to statutory...

Senator Enrile. General provisions.

Senator Roco. Yes, we just change "MISCELLANEOUS" to GENERAL PROVISIONS so that it becomes applicable to all.

Senator Enrile. Yes, Mr. President.

Senator Roco. Thank you, Mr. President. May we have an approval.

Senator Enrile. So we are now on page 32. I accept all the amendments to Section 22, beginning on line 22 on page 32, all the way to line 5 on page 33, Mr. President.

The President. Is there any objection? [Silence]
There being none, the amendments are approved.

Senator Enrile. And then I accept all the amendments to Section 23 appearing on line 6 on page 33, all the way to line 16 of the same page, Mr. President.

The President. Is there any objection? [Silence]
There being none, the amendments are approved.

Senator Enrile. I accept all the amendments to Section 24 appearing on line 17 on page 33, all the way to lines 1 to 29, page 34 and up to line 2 of page 35, Mr. President.

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

Senator Flavio. Mr. President, I have an anterior amendment on page 33, line 23.

Senator Enrile. Before the distinguished gentleman from the Cordilleras will propose his amendment, may I just propose--this is a major amendment because this will make the provision conform with WTO, Mr. President. This is found in Section 24, page 33, line 23. Instead of the word "THREE", this word "THREE" should be changed to TWO because that is the provision of the WTO. We must remove the bracket ([) before the word "two" and the number

“(2)” before the word “THREE” and bracket [] the word “THREE” as well as the number “3” before the word “preceding”.

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

Sen. Juan M. Flavier is recognized.

Senator Flavier. That was exactly my amendment, Mr. President.

The President. All right.

Senator Enrile. Thank you. I am sorry.

Senator Guingona. Mr. President.

The President. Sen. Teofisto T. Guingona Jr. is recognized.

Senator Guingona. Mr. President, just three small changes. In Section 5, after the word....

Senator Enrile. Section 5? Can we finish first, Mr. President, and then we go back?

Senator Guingona. Yes, Mr. President.

Senator Enrile. Mr. President, I accept all the amendments to Section 25 appearing on page 35, line 3, all the way to line 10 of page 36.

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

FLAVIER AMENDMENTS

Senator Flavier. Mr. President, on page 35, line 7, delete the word “annual” and replace it with the word ACTUAL.

Senator Enrile. It is accepted, Mr. President.

The President. Is there any objection? [Silence]

There being none, the amendment is approved.

Senator Flavier. On the same page 35, same line 7, delete the phrase "price reference" and replace it with the phrase REFERENCE PRICE.

The President. What does the sponsor say?

Senator Enrile. It is accepted, Mr. President.

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

Senator Roco. Mr. President, just for curiosity. Can somebody show me the difference between "reference price" and "price reference"? This is just for my education.

The President. Will the sponsor reply to Senator Roco?

Senator Roco. I will not insist on the answer.

Senator Enrile. There is no such thing as "price reference", Mr. President. The correct terminology is "reference price".

Senator Roco. All right. I am fully enlightened, Mr. President.

Senator Enrile. Thank you, Mr. President.

Mr. President, I accept all the amendments to Section 26 appearing on page 36, lines 11 to 16.

The President. Is there any objection? [Silence]

There being none, the amendment is approved.

Senator Enrile. Mr. President, I accept all the amendments to Section 27 appearing on page 36, beginning on line 17 to line 21.

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

Senator Enrile. I accept all the amendments to Section 28 appearing on page 36, beginning on line 22, all the way to line 5 of page 37, Mr. President.

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

FLAVIER AMENDMENT

Senator Flavier. Mr. President, on page 36, line 27, delete the word "make" and replace it with the word MADE.

Senator Enrile. It is accepted, Mr. President.

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

We are now on page 37.

Senator Enrile. We are now on page 37, "Chapter IV, MISCELLANEOUS PROVISIONS". I accept all the amendments.

Senator Roco. Just an editorial correction, Mr. President. Earlier, it was accepted that the title will be "General Provisions."

The President. On line 6.

Senator Enrile. There is a chapter, "General Provisions", Mr. President.

Senator Roco. Yes, instead of "Miscellaneous."

Senator Enrile. No, this is in Chapter I, "General Provisions."

Senator Roco. Then, may we have another title, Mr. President, that indicates that this....because we put a general limitation here.

Senator Enrile. We can put a special provision.

Senator Roco. Maybe, instead of "MISCELLANEOUS."

Senator Enrile. Maybe we can change the word "MISCELLANEOUS" to SPECIAL and include that section proposed by the distinguished Senator from Camarines Sur.

Senator Roco. Yes, Mr. President.

Senator Enrile. So I propose that line 6, after the word "CHAPTER IV" and the period (.), we delete the word "MISCELLANEOUS" and in lieu thereof, we insert the word SPECIAL.

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

Senator Enrile. I accept all the amendments to Section 29 appearing on line 7, all the way to line 21 on page 37.

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

Senator Enrile. I accept all the amendments to Section 30 on page 37 beginning on line 22 all the way to line 29.

Senator Roco. Mr. President, just for clarification. Among the proposed amendments on lines 25 to 27, I think,

these are bracketed. So, presumably, this word "Provided" will then be deleted. I am on page 37.

The President. Yes, that is correct.

Senator Enrile. What line, Mr. President?

Senator Roco. Line 25, beginning with the proviso up to line 27.

Senator Enrile. That is correct, Mr. President. Those are deleted, including the colon (:).

Senator Roco. Yes. I just have a note here. I have not figured it out yet.

Senator Enrile. The colon (:) should be replaced with a period (.).

Senator Roco. Yes, Mr. President. That is clear to me. But the note indicates that when we delete those lines, the word "Thereafter" on line 27, all the way to the end of line 29 may not make sense. It reads:

There shall be no recourse to the use of general safeguard measure under Chapter II of this Act concurrently with the special safeguard measure as provided for under Chapter III of this Act. Thereafter, recourse to safeguard measures shall be subject to the provisions of general safeguard measures as provided in Chapter II of this Act.

I cannot just understand it.

Senator Enrile. Just a minute. We can delete that, Mr. President. I suggest that we delete the sentence beginning from the word "Thereafter" all the way to the end of the sentence on line 29 of page 37.

Senator Roco. I see.

Senator Osmeña (S). Mr. President.

The President. Sen. Sergio R. Osmeña III is recognized.

Senator Osmeña (S). Mr. President, perhaps to add to the confusion, I would like to indicate to the distinguished sponsor that I was going to move for the retention of the proviso on lines 25 to 27. I agree that lines 27 to 29 would not make sense without lines 25 to 27.

Senator Enrile. So the gentleman wants a restoration of the proviso, Mr. President?

Senator Osmeña (S). To restore the proviso, Mr. President.

Senator Roco. Again, it will not make sense. I am sure that the provisions of the Act are alternative safeguard measures. It says: "There shall be no recourse to the use of general safeguard measure under Chapter II of this Act concurrently with the special safeguard measure," and it adheres to the principle of law that we must select our options; we must select our remedies. If we take a general safeguard measure, that is fine. But we do not hit whoever is affected with a special safeguard measure. But if we take a special safeguard measure under the agricultural provisions, then we do not....

Senator Enrile. What this means, Mr. President, is that, it says here: "There shall be no recourse to the use of general safeguard measure under Chapter II of this Act

concurrently with the special safeguard measure as provided for under Chapter III of this Act and vice versa[:]
[Provided, that the special safeguard measures for agricultural product...--this should be "products", plural, Mr. President. Just a typographical error--

Senator Roco. Yes.

Senator Enrile. "--shall lapse with the duration of the reform process in agriculture as determined in the WTO.]"" There is such a provision. So that after this--the lapse of this duration--"recourse to safeguard measures shall be subject to the provisions of general safeguard measures as provided in Chapter II..." In other words, we can no longer use a special safeguard thereafter.

Senator Roco. Yes. I understand that, Mr. President. Now, can I just share how I read it? Maybe I can understand the first sentence. We cannot use both.

Senator Enrile. That is in the Treaty, Mr. President.

Senator Roco. Yes. So we must choose only one. So the first sentence stands.

Senator Enrile. Yes.

Senator Roco. We have no problem with that, Mr. President. But if we were to say, "that the special safeguard measures for agricultural products shall lapse with the duration of the reform process in agriculture as determined in the WTO" and that thereafter we are covered by Chapter II, then these two sentences probably should be under Chapter III. In other words, put these as a

limitation under Chapter III because it is clearly pursuant to the agricultural products. Chapter III is agricultural. Then, we are clear.

In other words, Chapter III lapses. These wordings will have to be transposed to Chapter III because Chapter III has a definitive life. It lapses after the reform process of WTO and thereafter, we resort only to general.

So it should not be put in this section, Mr. President, if the good sponsor will consider. It should be put under some provision of Chapter III.

Senator Enrile. If the gentleman will propose that, Mr. President, I will accept it, subject to style.

ROCO AMENDMENT

Senator Roco. Yes, Mr. President. So it should be put maybe as an additional section to Chapter III. Because the intent is very clear, except that when we mix up the two ideas, it becomes unclear.

Senator Enrile. Where is Chapter III? Beginning on what page?

Senator Roco. It begins on page 32 and ends on page 37. May we recommend a transposition. From the bottom of page 37, we move it up between lines 5 and 6. The second and the third sentence on line 25 down to line 29 shall now be a separate section between lines 5 and 6 of the same page.

Senator Enrile. Yes. We put a period (.) after the word "vice-versa". And then we delete "Provided, that" and capitalize the letter T in the word "the" and

transpose these whole two sentences beginning with line 25 and ending on line 29....

Senator Roco. Yes, and put them between lines 5 and 6 of the same page. Put it between lines 5 and 6. It is a separate section. It will become the last section of agricultural special safeguards measures.

Senator Enrile. Yes, Mr. President. We will put a separate section between lines 5 and 6 and that will be Section 29, and the next section will be Section 30. We will renumber the sections accordingly.

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

Senator Roco. Thank you, Mr. President.

Senator Enrile. Mr. President, this representation has accepted all the amendments to Section 31 found on page 38, lines 1 to 6.

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

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

PIMENTEL AMENDMENT

Senator Pimentel. Anterior amendment, Mr. President.

Just a grammatical error found on page 37, line 8. The word "the" is being deleted when it should not be deleted.

Senator Enrile. I agree, Mr. President. I am sorry that this has escaped our attention. We remove the brackets [] that enclose the word "the".

Senator Pimentel. Can we not see how brilliant that observation is, Mr. President? *[Laughter]*

Senator Enrile. With the permission of the Chair, may I ask for an approval of that correction.

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

Senator Enrile. We go to page 38. I accept all the amendments on Section 32, found on lines 7 to 31 of page 38.

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

Senator Enrile. The paragraph found on lines 1 to 7 of page 39 has to be deleted.

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

Senator Enrile. I accept the amendment to Section 33 found on page 39, starting from line 8 to line 10.

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

Senator Enrile. I accept all the amendments to Section 34 found on page 39, starting from line 11 to line 15.

Senator Roco. Mr. President.

The President. What is the pleasure of Senator Roco?

Senator Roco. Just two questions, Mr. President.

No. 1. The provision was already accepted and it was approved. So it will appear as either Section 33 or whatever. It will be before the "Separability Clause."

Senator Enrile. Yes. So we insert.

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Senator Roco. Yes. But that has already been approved, Mr. President. That is already on record.

The question I am going to ask is: What is Section 109 of RA No. 8435?

Senator Osmeña (S). Mr. President, with the permission of the kind sponsor, the gentleman from Bicol, perhaps I may enlighten.

Senator Roco. Yes, Mr. President.

Senator Osmeña (S). Republic Act No. 8435 is the Agriculture and Fisheries Modernization Act of 1997. Section 109 was a section inserted by this representation giving duty-free importation privileges for all inputs into the agricultural sector, including tractors, implements, fertilizers, pesticides, insecticides.

So this particular section may have been interpreted to repeal certain provisions of other Acts. So we made sure that Section 109, which was done for the benefit of the farmers, would not be affected.

Senator Roco. Yes. I have no problem with the concept, Mr. President, only with the drafting. It is unusual in the *Repealing Clause* to put something that instead of repealing, preserves. It is just contradictory.

The President. The Chair shares the observation of Senator Roco. In fact, it could be interpreted that Republic Act No. 8435 is being repealed, except Section 109.

Senator Roco. That is the problem. I ask this because instead of achieving the purpose of the gentleman, we might end up with an argument that we have just repealed that law.

The President. Except Section 109.

Senator Enrile. Just to accommodate, Mr. President, after the *Repealing Clause*, may I propose a section: NOTHING CONTAINED IN THIS ACT SHALL IN ANY WAY AFFECT THE PROVISIONS OF REPUBLIC ACT NO. 8435.

The President. That is correct.

Senator Roco. That is better. It should be before the *Repealing Clause*, because these are all now under Special Provisions.

Senator Enrile. Yes, Mr. President.

After the section proposed by the gentleman, then we insert another section, which will be Section 34, which says: NOTHING CONTAINED IN THIS ACT SHALL IN ANY MANNER AFFECT THE PROVISIONS OF REPUBLIC ACT NO. 8435.

Senator Roco. If I may suggest, Mr. President--this is good in aid of reelection--the gentleman might want to jazz it up with the title--ASSISTANCE TO FARMERS AND FISHERFOLK. Then we can say: TO FURTHER ENHANCE THE CAPACITY OR EMPOWERMENT OF FISHERMEN, et cetera.

Senator Enrile. PROTECTION OF FISHERMEN.

The President. Can the Chair make a query to the sponsor?

When we say, NOTHING IN THIS ACT SHALL BE INTERPRETED IN ANY MANNER TO AMEND OR REPEAL ANY PROVISION OF....

Senator Enrile. AFFECT ANY PROVISION.

The President. AFFECT ANY PROVISION OF REPUBLIC ACT NO. 8435, may the Chair know if there is anything in the proposed Act which, in fact, is intended to affect certain provisions of Republic Act No. 8435?

Senator Enrile. None, Mr. President.

ROCO AMENDMENT

Senator Roco. That is why, Mr. President, my suggestion was, when we put a title of enhancing assistance to fisherfolk, fishermen, and farmers or agricultural workers, we just say, TO FURTHER ENHANCE THE CAPACITY OF THE FISHERMEN.... THE PROVISIONS OF REPUBLIC ACT NO. 8435 ARE HERE REITERATED. So we do not put it negatively.

Senator Enrile. All right. Then may I suggest, Mr. President, that Section 33 will be the Roco provision; Section 34 will be titled ENHANCING THE INTEREST OF FISHERMEN....

The President. Both fishermen and farmers. And agriculture.

Senator Roco. Is Republic Act No. 8435 for fishermen?

The President. No. AFMA- Agriculture, Fisheries Modernization Act.

Senator Roco. Then we say, AGRICULTURE AND FISHERFOLK ASSISTANCE.

Senator Enrile. FARMERS AND FISHERFOLK.

TO SAFEGUARD AND ENHANCE THE INTEREST OF FARMERS AND FISHERFOLK, THE PROVISIONS OF REPUBLIC ACT NO. 8435 SHALL NOT IN ANY WAY BE AFFECTED BY THE PROVISIONS OF THIS ACT.

Senator Roco. Yes. And just so it is not missed by any of the reelectionists, Mr. President, that becomes a one-liner in the leaflet--author and coauthor enhancing fisherfolk and agriculture.

Senator Enrile. Thank you, Mr. President. With that, I will now go to Section...

The President. First, can we approve that amendment formally?

Senator Roco. Yes, Mr. President.

Senator Enrile. Subject to style, Mr. President.

The President. Is there any objection? [Silence]
There being none, subject to style, the amendment is approved.

Senator Enrile. On *Repealing Clause*, Mr. President, may I suggest that apart from the amendments to Section 34 that I have already accepted, I propose that we delete the last sentence of Section 34 starting with the word "HOWEVER" and ending with the word "EFFECT" on line 15.

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

Senator Enrile. Mr. President, I accept all the amendments to Section 35 of this proposed measure appearing on page 39, starting from line 16 and ending on line 18.

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

Senator Enrile. That ends the amendments, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, there are a few points which the Minority Leader would like to revisit.

The President. The Minority Leader is recognized.

GUINGONA AMENDMENT

Senator Guingona. Mr. President, with the permission of Sen. Serge Osmeña who originally authored this, just three amendments.

In Section 5, line 14, between the words "Commission" and....

Senator Enrile. What page, Mr. President?

Senator Guingona. Page 6, Mr. President.

Senator Enrile. Between...?

Senator Guingona. On line 14, between the words "Commission" and "subject".

Senator Enrile. Yes, Mr. President.

Senator Guingona. I would like to introduce the following: AND AFTER IT HAS BEEN ESTABLISHED THAT THE APPLICATION OF SUCH SAFEGUARD MEASURE WOULD BE IN THE PUBLIC INTEREST.

The President. What does the sponsor say?

Senator Enrile. Just a minute, Mr. President. AND AFTER IT HAS BEEN ESTABLISHED....

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Senator Guingona. THAT THE APPLICATION OF SUCH SAFEGUARD MEASURE WOULD BE IN THE PUBLIC INTEREST.

Senator Enrile. What happened to the rest of the....

Senator Guingona. Continue after that, "subject"....

Senator Enrile. Comma (,) "subject to the subsequent provisions of this Act."

Senator Guingona. Yes.

Senator Enrile. It is accepted, Mr. President, subject to style.

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

Senator Osmeña (S). Mr. President.

The President. Sen. Serge Osmeña is recognized.

OSMEÑA (S) AMENDMENT

Senator Osmeña (S). Mr. President, on line 14, we might as well delete the words "INJURY BY".

Senator Enrile. So, "determination of the Commission."

Senator Osmeña (S). So it will read: "shall apply a general safeguard measure upon A positive determination of the Commission AFTER IT HAS BEEN....

Senator Enrile. AND AFTER. Remove the comma (,).

Senator Osmeña (S). Remove the comma (,): AND AFTER IT HAS BEEN ESTABLISHED THAT THE APPLICATION OF SUCH SAFEGUARD MEASURE WOULD BE IN THE PUBLIC INTEREST subject to the subsequent provisions of this Act."

Senator Enrile. It is accepted, Mr. President.

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

Senator Enrile. Is there anything else, Mr. President?

GUINGONA AMENDMENT

Senator Guingona. On page 8, Section 7, line 12, Mr. President, after the words "Preliminary Determination," "not later than SIXTY (60) DAYS IN CASE OF NON-AGRICULTURAL PRODUCTS....

Senator Enrile. So the distinguished gentleman is changing the "FIFTEEN (15) days" to SIXTY (60) DAYS, Mr. President?

Senator Guingona. Yes.

Senator Enrile. We bracket [] "FIFTEEN (15) days" and remove the brackets [] on "sixty (60) days"?

Senator Guingona. AND THIRTY (30) DAYS IN CASE OF AGRICULTURAL PRODUCTS FROM RECEIPT OF THE PETITION.

Senator Enrile. Why the difference between non-agricultural and agricultural products, Mr. President? Why can we not make a uniform period so that we will not confuse the implementors of this measure?

Senator Guingona. The agricultural has more urgency in some cases, Mr. President.

Senator Enrile. I think to be fair, Mr. President, we should treat them alike.

Senator Guingona. It might be perishable and therefore the agricultural could be a little shorter. So that it reads, "Not later than SIXTY (60) DAYS IN CASE OF

NONAGRICULTURAL PRODUCTS AND THIRTY (30) DAYS IN CASE OF AGRICULTURAL PRODUCTS from receipt of petition".

Senator Enrile. If it is perishable, Mr. President, if the gentleman says "not later than 60 days", he could do it in one day, he could do it in seven days, and he can wait until the end of the 60 days to act, depending upon his judgment with respect to the nature of the product. That is why, I am appealing that we make this simpler by using a uniform number of days.

Senator Guingona. Sixty days.

Senator Osmeña (S). Mr. President, may I clarify?

We are talking about two different secretaries here. One would be the Secretary of Agriculture for agricultural products and the other one would be the Secretary of Trade for nonagricultural products.

Senator Enrile. That is correct, Mr. President. But I assume that the Secretary of Agriculture or the Secretary of the Department of Trade and Industry, as the case may be, will exercise their judgment to act. Instead of waiting 60 days in their judgment, the product will deteriorate in their custody if they will delay the action. So, I think, if we say not later than 60 days, he can do it in one hour or he can do it in 60 days, depending upon the circumstance presented to him.

Senator Guingona. The phrase is "not later".

Senator Enrile. "Not later than", Mr. President, that is the starting point.

Senator Osmeña (S). It is accepted, Mr. President. I have no objection.

Senator Guingona. "Not later than".

Senator Enrile. Yes. So, "not later than 60 days". Only one period so that it will not clutter this measure.

I accept, Mr. President.

The President. So the amendment is to change "FIFTEEN" to SIXTY (60) DAYS, or reinstate the 60 days. That is already found there.

Senator Enrile. Yes, I accept, Mr. President.

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

Senator Pimentel. Mr. President.

The President. Sen. Aquilino Q. Pimentel, Jr. is recognized.

Senator Pimentel. What happens if the Secretary does not resolve the issue within the time frame set?

Senator Enrile. We should ask him to be fired, Mr. President.

PIMENTEL AMENDMENT

Senator Pimentel. That is the reason why, probably, we should put a sanction here. If the Secretary does not act within the certain period, we either allow the entry or whatever, or impose a sanction on the Secretary for failure to do so.

Senator Enrile. That will be dereliction of duty, Mr. President.

Senator Pimentel. Yes.

Senator Enrile. I will accept a proposal.

Senator Pimentel. Therefore, the gentleman can frame it and I will accept it, Mr. President. *[Laughter]*

Senator Enrile. I am already *hilo*, Mr. President.

The President. Maybe, Senator Pimentel can just state the concept, if it is acceptable, subject to style.

Senator Pimentel. In other words, Mr. President, at the end of this section, there should be a statement that failure on the part of the Secretary...

Senator Enrile. Maybe in the Special Provision, we can insert a provision that failure of the Secretary to act in a meritorious case shall expose him to disciplinary measure.

Senator Pimentel. Yes, I accept, Mr. President.

Senator Enrile. Subject to style, Mr. President.

Senator Tatad. Mr. President, before we accept that "failure of the Secretary to act in a meritorious case". The secretary is supposed to make the preliminary determination. So how do we know that the case is meritorious before the preliminary determination is made?

Senator Enrile. That is addressed to the evidential appreciation of the applicant. I am sure the applicant will complain if the Secretary will not act. And if the complaint is meritorious because indeed there was serious injury or imminence of serious injury, then the Secretary should be subject to disciplinary action.

Senator Tatad. Probably elevate it to the President.

Senator Enrile. That is a general statement, Mr. President. We do not have to provide the specific procedure to discipline him but we will expose him to disciplinary action.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

Senator Roco. Mr. President, we are talking of the 15 days from receipt of the petition.

The President. It is now 60 days, Senator Roco.

Senator Roco. Yes. Can I go back then? I think somebody said something about the distinction between agricultural and nonagricultural.

Mr. President, the process, as described here, is already deleterious if it is agricultural, because vegetables will not last. Corn in 15 days loses the *reboflatoxin*, or whatever it is, and is no longer corn.

Senator Enrile. That is why, Mr. President, with due respect to the opinion of my esteemed friend, the wording is "Not later than SIXTY (60) days."

Senator Roco. I realize that, Mr. President. I am just calling attention to a practical problem for those involved in agriculture, and I will suggest a solution if that is acceptable.

Because of the nature of agricultural imports, especially if they are live or if they have a very short shelf life and perishable, there must be some provisions

pending all these determinations. We allow the entry of the corn or whatever and then we just penalize them by fines if we catch them, so that the process will not delay in the case of agricultural products. Otherwise, these will not be agricultural products soon enough.

In other words, the moment somebody complains to the Secretary, it stops the process of importation. Patay na kayo.

What I am saying is...

Senator Enrile. Mr. President, we are not impeding here the release of goods. The petition is filed and the goods have already been imported, because there can be no import surge unless there is a completed importation. So there is no problem of deterioration or rotten eggs or rotten chicken or rotten vegetables.

The Secretary will be confronted with a petition saying that there is an increased importation of goods in the country. And these importations already released from Customs--because importation means release from Customs' custody--are affecting or seriously injuring or threatening to injure the local industries. So there is no possibility of any rotten eggs or rotten vegetables here.

Senator Roco. All right. If that is the process, then my apprehensions were totally...

Senator Enrile. As usual, Mr. President, the distinguished gentleman understands me very well. [Laughter]

Senator Roco. Of course, Mr. President. It must be

the common interest.

Senator Enrile. In aid of reelection. *[Laughter]*

Senator Roco. As long as that is the clear process, then we can be happy with the provision.

Thank you, Mr. President.

Senator Enrile. May I now clarify the suggestion of the distinguished Senator from Cagayan de Oro. Subject to style, it must be placed as a special provision, if the distinguished Majority Leader has no serious objection to the formulation that we have made.

Senator Tatad. There is no serious objection, Mr. President. I just wanted to clarify a point.

Senator Enrile. Can we now approve that amendment, Mr. President?

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

Senator Enrile. May I suggest that the Senate President instruct the Secretariat to put that provision in a proper place in the chapter for Special Provisions.

The President. Sen. Serge Osmena is recognized.

OSMENA (S) AMENDMENTS

Senator Osmena (S). Mr. President, in Section 7, may I just ask for a small amendment to be considered.

Senator Enrile. Surely, Mr. President.

Senator Osmena (S). On line 19, change "fifteen (15)" to "FIVE (5) WORKING days."

Senator Enrile. "FIVE (5) WORKING days." It is

accepted, Mr. President.

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

Senator Osmena. On line 20, delete the words "Receipt of" and capitalize the letter "S" on the word "such". So that the sentence begins, "Such notice shall".

Senator Enrile. Is the distinguished gentleman talking of... There are two phrases of "receipt of" here, Mr. President.

Senator Osmena (S). I am sorry, the second "receipt of."

Senator Enrile. The second "receipt of."

Senator Osmena (S). ...is deleted.

Senator Enrile. ...is deleted and capitalize the "S" in the word "such as". It is accepted, Mr. President.

Senator Osmena (S). After the word "deemed", insert the word...

The President. Let us first approve that. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Osmena (S). On the same line, after the word "DEEMED", insert the word RECEIVED, after the word "DEEMED".

Senator Enrile. RECEIVED.

Senator Osmena (S). So it shall read, Such notice shall be deemed RECEIVED.

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Osmena (S). And lastly, on line

Senator Enrile. One week? Such notice shall be deemed received one week or seven calendar days?

Senator Osmeña (S). I was just about to amend that.

Senator Enrile. Thank you, Mr. President.

Senator Osmeña (S). On lines 20 and 21, delete "one week or seven (7) calendar "days", and insert "FIVE WORKING", the same as the first amendment. So, it shall now read: "Such notice shall be deemed RECEIVED FIVE WORKING days from the date of transmittal".

Senator Enrile. It is accepted, Mr. President.

Senator Tatad. I move for its approval, Mr. President.

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

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

GUINGONA AMENDMENT

Senator Guingona. One last amendment on page 14, line 5. Delete the word THIRTY (30) and instead place ONE HUNDRED TWENTY (120) DAYS.

Senator Enrile. It is accepted, Mr. President.

Senator Tatad. I move for its approval, Mr. President.

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

Senator Guingona. On line 6, after the word "Secretary" comma (,) instead of a period (.), EXCEPT WHEN THE SECRETARY CERTIFIES THAT THE SAME IS URGENT comma (,) IN WHICH CASE THE COMMISSION SHALL COMPLETE ITS INVESTIGATION AND SUBMIT THE REPORT TO THE SECRETARY WITHIN THIRTY (30) DAYS.

Senator Enrile. It is accepted, Mr. President.

Senator Tatad. I move for its approval, Mr. President.

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

OSMENA (S) AMENDMENT

Senator Osmeña (S). Mr. President, slight modification. May we emphasize CALENDAR DAYS.

Senator Enrile. It is accepted too, Mr. President.

Senator Tatad. I move for its approval, Mr. President.

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

Senator Osmeña (S). Lastly on page 14, since we are still on page 14, line 3, after the word THE, insert the phrase INITIATION OF THE.

Senator Enrile. INITIATION...

Senator Osmeña (S). ...OF THE, and then after the word...

Senator Enrile. THE INITIATION OF THE INVESTIGATION.

Senator Osmeña (S). And after the word "INVESTIGATION", insert the phrase BY THE COMMISSION. So, it shall now read: "SUBMITTED TO THE COMMISSION WITHIN FIFTEEN (15) DAYS AFTER THE INITIATION OF THE INVESTIGATION BY THE COMMISSION."

Senator Enrile. WITHIN FIFTEEN (15) DAYS AFTER THE INITIATION OF THE INVESTIGATION BY THE COMMISSION.

Senator Osmeña (S). That is correct.

Senator Enrile. The amendment is accepted, Mr. President.

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

Senator Tatad. Mr. President, one final point. On page 29, on Notice of General Safeguard Measure.

Senator Enrile. Just a minute, Mr. President, I have to look for my page 29.

Senator Tatad. Section 18.

Senator Enrile. Section 18, page 29, I found it.

Senator Tatad. Because of this supersonic speed of these omnibus amendments, I have been unable to follow. But to the best of my knowledge, there is only one multilateral organization that we are addressing here. That is the WTO that we are enacting this law on Safeguard Measures, otherwise if the tariffs are not bound, for instance, and we are not dealing with a WTO member, we can unilaterally increase tariff, et cetera.

Senator Enrile. What is the pleasure now of the distinguished gentleman?

Senator Tatad. I want to find out the exact identities of these concerned committees on safeguards of the multilateral and regional trading arrangements, First of all, what multilateral trading arrangements are we talking about and what regional trading arrangements are we talking about?

Senator Enrile. Mr. President, I did not draft this portion of the measure and so...

TATAD AMENDMENT

Senator Tatad. Mr. President, instead of saying "the concerned committees on safeguards of the multilateral and regional trading arrangements", can we specify and simply say: THE COMMITTEE ON SAFEGUARDS AND THE COMMITTEE ON AGRICULTURE--as the case may be--OF THE COUNCIL FOR TRADE IN GOODS OF THE WORLD TRADE ORGANIZATION? These are the two bodies that should be notified.

Senator Enrile. It is accepted, Mr. President, subject to style.

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

Senator Tatad. Thank you very much, that is all, Mr. President.

There being no further amendments, I move that the period of amendments be closed.

The President. Is there any objection? [Silence]
There being none, the period of amendments on Senate Bill No. 2033 is hereby closed.

APPROVAL OF S. NO. 2033 ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Second Reading on Senate Bill No. 2033, as amended.

The President. Is there any objection? [Silence]
There being none, we shall now vote on Second Reading on Senate Bill No. 2033, as amended.

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

Several Members. Aye.

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

Senate Bill No. 2033, as amended, is approved on Second Reading.

Senator Tatad. This is a certified measure, Mr. President. May we ask the Secretary to read the Certification.

The President. The Secretary will do so.

The Secretary.

May 23, 2000

HON. FRANKLIN M. DRILON
Senate President
Philippine Senate
Pasay City

Dear Senate President Drilon:

Pursuant to the provisions of Article VI,
Section 26 (2) of the Constitution, I hereby 145

certify to the necessity of the immediate enactment of SB No. 2033, entitled:

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

to address the public emergency of providing the necessary protection of the domestic industries, both agricultural and the industrial sector, from injury attributable to the increased importation of goods and due to tariff concessions made under the World Trade Organization.

Best wishes.

Very truly yours,

(Sgd.) JOSEPH EJERCITO ESTRADA

Encl.: a/s
cc: Hon. Manuel B. Villar
Speaker
House of Representatives
Quezon City

PARLIAMENTARY INQUIRY OF SENATOR TATAD
(What Number of Senators Constitute a Quorum)

Senator Tatad. Mr. President, before I ask for a vote on Third Reading, may we hear from the Chair the exact requirement of a quorum at this point.

The President. There are seven who are out of the country. Since there are only 16 senators in the country, for the record, the following senators are presently out of the country: Sen. Teresa Aquino-Oreta, Sen. Renato L. Cayetano, Sen. Anna Dominique M.L. Coseteng, Sen. Miriam Defensor Santiago, Sen. Gregorio B. Honasan, Sen. Blas F. Ople, and Sen. Vicente C. Sotto III.

I am sorry. I have been informed that Senator Oreta is in the country. Therefore, there are six senators who are

out of the country. On the basis of six senators being out of the country, the quorum would be nine senators.

Senator Tatad. There are 12 senators right now. Very safe, Mr. President.

BILL ON THIRD READING
S. No. 2033--Safeguard Measures Act of 2000

Mr. President, I move that we vote on Third Reading on Senate Bill No. 2033.

The President. Is there any objection? [Silence]
There being none, voting on Third Reading on Senate Bill No. 2033 is now in order.

The Secretary will please read only the title of the bill.

The Secretary. Senate Bill No. 2033, entitled:

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

The President. We shall now vote on the bill and the Secretary will call the roll.

The Secretary. Senators

Aquino-Oreta.....	-
Barbers.....	-
Biazon.....	Yes
Cayetano.....	-
Coseteng.....	-
Defensor Santiago.....	-
Enrile.....	Yes
Flavier.....	Yes
Guingona Jr.....	Yes
Honasan.....	-
Jaworski.....	Yes
Legarda-Leviste.....	-
Magsaysay Jr.....	Yes
Ople.....	-
Osmeña (J).....	Yes
Osmeña (S).....	Yes
Pimentel.....	Yes
Revilla.....	-
Roco.....	Yes
Sotto III.....	-
Tatad.....	Yes

The President..... Yes

APPROVAL OF S. NO. 2033 ON THIRD READING

The President. With 12 affirmative votes, no negative vote and no abstention, Senate Bill No. 2033 is approved on Third Reading.

CONFERENCE COMMITTEE ON S. NO. 2000/H. NO. 8457
(Electric Power Industry Act of 2000)

Senator Tatad. Mr. President, to constitute the Senate panel on the disagreeing provisions of the House and Senate Energy Bills, I hereby nominate Sen. John H. Osmena as Chairman, and as members, Senators Juan Ponce Enrile, Sergio R. Osmena III, Raul S. Roco, Francisco S. Tatad, Teofisto T. Guingona Jr., and another Senator from the Majority whose name will be submitted later.

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

CONFERENCE COMMITTEE ON S. NO. 2033/H. NO. 7613
(Safeguard Measures Act)

Senator Tatad. Mr. President, I move that we now constitute the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of the Safeguard Measures Act by designating Sen. Juan Ponce Enrile as Chairman, and as members, Senators Raul S. Roco, Ramon B. Magsaysay Jr., Sergio R. Osmena III, and Juan M. Flavier.

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