

RECORD OF THE SENATE

TUESDAY, SEPTEMBER 1, 1998

OPENING OF THE SESSION

At 3:11 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 17th session of the First Regular Session of the Eleventh Congress is hereby called to order.

We shall be led in prayer by Sen. Sergio R. Osmeña III.

Everybody rose for the opening prayer.

Senator Osmeña III.

Almighty Father, be our rock of safety, the stronghold that saves us. For as the prophet Jeremiah said, "Blessed is the man who trusts in the Lord and puts all his confidence in Him. He is like a tree planted by the water's edge: that sends out its roots to the stream and does not fear when summer's heat comes, for its foliage remains green; nor has it any anxiety in the year of drought, for it does not cease to bear fruit."

Father, as we stand on the threshold of a new millennium, guide our footsteps, give us the courage to lead our people through treacherous waters. Bless us with humility of a servant's heart that we may serve the interests of the lowliest of our citizens, rather than bow to powers on earth. Allow us in humble servanthood to become instruments of Your divine justice. Give us the wisdom to discern the truth, so that we might stand steadfast in support of what is right, even if, at times, it may not be popular.

Look with favor upon our people, especially those suffering from deprivation and want: our farmers who this day suffer hunger in the form of the El Niño; the millions unemployed in the backlash of the economic crisis; those who suffer injustice from the crimes and evil that threaten to undo the moral fabric of our society. Heal us of the many divisions among us, that we may build a strong nation, united in loving You and loving one another, and ready to face the future like a new day awakening.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

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

The President. With 20 senators present, the Chair declares the presence of a quorum.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

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

The President. Is there any objection? [Silence] There being none, the reading of the Journal of the previous session is dispensed with and the same is considered approved.

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

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

The Secretary will please read the Reference of Business.

* On official mission

The Secretary. Proposed Senate Resolution No. 163, entitled

RESOLUTION DIRECTING AN INQUIRY, IN AID OF LEGISLATION, ON THE "TAIWAN MYSTERY DISEASE" AFFECTING FILIPINO WORKERS

Introduced by Senator Santiago

The President. Referred to the Committee on Health and Demography

COMMUNICATIONS

The Secretary. Letter from Director Lourdes M. Trasmonte of the Department of Labor and Employment (Regional Office No. 9), submitting to the Senate the Statement of Cumulative Allotments, Obligations Incurred and Unliquidated Obligations and Statement of Cumulative Obligations Incurred, Expenditures and Unliquidated Disbursement by province/city for the quarter ending March 31, 1977 for the following funds:

Working Youth Center; Tulong, Alalay sa Taong May Kapansanan; Promotion for Rural Employment and Entrepreneurship and Development; Special Program for Employment of Students; National Employment Conference; Workers Organization Development Program; Kabataan 2000; SRO-CARP fund 101; One-Village-One Product Concept; and General Fund 101.

The President. Referred to the Committee on Finance

The Secretary. Letter from Director Eugenio G. Fernandez of the Commission on Audit (Regional Office No. X), furnishing the Senate the 1997 Annual Audit Reports of the following offices:

Bukidnon Forests Incorporated; Bukidnon State College; Camiguin Polytechnic State College; Central Mindanao University; Misamis Oriental State College of Agriculture and Technology; Mindanao Polytechnic State College; and Mindanao State University, Naawan, Misamis Oriental.

The President. Referred to the Committee on Finance

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 763--Anti-Dumping Act
(Continuation)

Senator Drilon. With the consent of the Chamber, I move

that we resume consideration of Senate Bill No. 763, as reported out under Committee Report No. 1. We are now in the period of individual amendments.

For this purpose, may I ask the Chair to recognize Sen. Juan Ponce Enrile, the sponsor of the measure, and Sen. Miriam Defensor Santiago who will propose some amendments.

May I invite the attention of the Chamber and our colleagues that we have an amended copy of Senate Bill No. 763 which already contains the amendments approved in yesterday's session. This will now be the basis of the amendments proposed on the floor. This is in our blue folders, Mr. President.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 763 is now in order. Sen. Juan Ponce Enrile, the sponsor, is recognized and Sen. Miriam Defensor Santiago is recognized for individual amendments.

Senator Santiago. Thank you, Mr. President. On page 16, line 8, after the word "value", insert the phrase IN THE COUNTRY OR COUNTRIES OF ORIGIN OR EXPORT.

Senator Enrile. Mr. President, that is already contained in the last portion of this paragraph which are lines 10 and 10a.

The President. That is the new copy.

Senator Santiago. I was using the new copy which has been handed to me. Thank you.

I am referring to the old copy. On page 24, line 17.

Senator Enrile. Is it of the new copy, Mr. President?

Senator Santiago. Let me look for it, Mr. President. In any event, this is the provision on negligible volume.

Senator Enrile. That is on page 24, lines 11 and 12.

Senator Santiago. I would like to propose that we should insert the sentence THE DETERMINATION OF WHAT CONSTITUTE NEGLIGIBLE VOLUME OF IMPORT SHALL BE FIXED BY THE COMMISSION WITHIN THREE (3) MONTHS FROM THE APPROVAL OF THIS ACT.

Senator Enrile. Mr. President, this term "negligible volume" is, in effect, what we call *de minimis*. That is covered by the provision of the treaty itself.

In fact, this is also reflected in paragraph 1, lines 6, 7 and 8 of this proposed measure;... "ONLY IF THE COMMISSION IS

CONVINCED THAT: (1) THE MARGIN OF DUMPING ESTABLISHED IN RELATION TO THE IMPORTS FROM EACH COUNTRY IS MORE THAN *DE MINIMIS* AS DEFINED IN EXISTING INTERNATIONAL TRADE AGREEMENTS OF WHICH THE REPUBLIC OF THE PHILIPPINES IS A PARTY; (2) TO THE VOLUME OF SUCH IMPORTS FROM EACH COUNTRY IS NOT NEGLIGIBLE;"... or not *de minimis* as also so defined.

SUSPENSION OF THE SESSION

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

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

It was 3:25 p.m.

RESUMPTION OF SESSION

At 3:26 p.m., the session was resumed.

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

Senator Enrile. Actually, Mr. President, the provision of the treaty on *de minimis* margin of dumping and volume reads as follows. This is page 152 of the Uruguay-Round Final Act, Marrakesh, 15 April 1993, published by PhilExport, which states:

An application under paragraph 1 shall be rejected and investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 percent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from particular country is found to account for less than 3 percent of imports of the like product in the importing Member, unless countries which individually account for less than 3 percent of the imports of the like product in the importing Member collectively account for more than 7 percent of imports of like product in the importing Member.

in which case, we transcend the *de minimis* level.

SANTIAGO AMENDMENTS

Senator Santiago. That is a technical definition and I definitely have no problem with it. I would like to propose simply that this definition from the international trade paper should be incorporated in the law, so that the reader and the user will be aided in defining the term without reference to another document because not everyone who will get hold of this bill will be able to access at the same time the GATT itself. Maybe we would add it as an additional paragraph to paragraph J.

Senator Enrile. I have no objection to that, Mr. President. We can probably reproduce paragraph 5.8 with some rewording of the first sentence between lines 17 and 17a of page 24.

Senator Santiago. Yes, that was precisely my intention.

I would suggest, Mr. President, that what we should reproduce would be the third sentence of paragraph 5.8 of Article 5 of Part I of the Agreement on the Implementation of Article VI of the General Agreement on Tariff and Trade of 1994, which reads as follows:

THE MARGIN OF DUMPING SHALL BE CONSIDERED TO BE *DE MINIMIS* IF THIS MARGIN IS LESS THAN 2 PERCENT EXPRESSED AS A PERCENTAGE OF THE EXPORT PRICE. THE VOLUME OF DUMPED IMPORTS SHALL NORMALLY BE REGARDED AS NEGLIGIBLE IF THE VOLUME OF DUMPED IMPORTS FROM A PARTICULAR COUNTRY IS FOUND TO ACCOUNT FOR LESS THAN 3 PERCENT OF IMPORTS OF THE LIKE PRODUCT IN THE IMPORTING MEMBER, UNLESS COUNTRIES WHICH INDIVIDUALLY ACCOUNT FOR LESS THAN 3 PERCENT OF THE IMPORTS OF THE LIKE PRODUCT IN THE IMPORTING MEMBER COLLECTIVELY ACCOUNT FOR MORE THAN 7 PERCENT OF IMPORTS OF THE LIKE PRODUCT IN THE IMPORTING MEMBER.

I suggest that the inserted between lines 17 and 17a of page 24 of the most recent version of the measure, Mr. President.

Senator Santiago. That would be perfect, Mr. President.

The President. With that modification, perhaps there is no more objection on the part of the author.

Is there any objection to the motion? This is based on the third sentence of paragraph 5.8 of Article 5 of Part I of the Agreement on the Implementation of Article VI of the General

Agreement on Tariff and Trade? *[Silence]* There being none, the amendment is hereby approved.

Senator Santiago. I go now to page 24a, line 30 of this revised version.

Senator Enrile. Yes, Mr. President.

Senator Santiago. "The remainder shall be returned to the importer immediately." I propose to insert the sentence: THE REMAINDER WHICH IS TO BE RETURNED TO THE IMPORTER SHALL NOT EARN ANY INTEREST.

Senator Enrile. It is accepted, Mr. President.

Senator Santiago. That is all, Mr. President.

Senator Enrile. Thank you, Mr. President.

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

Senator Drilon. Since there are no further amendments, Mr. President, I move that we close the period of individual amendments.

The President. Is there any objection to the closure of the period of individual amendments?

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. I really do not have any specific objection to any particular section in the proposed amendments by Senator Enrile. What I would like to suggest, however, is that the English should be a little more understandable. It is not the gentleman's fault, Mr. President, I know that. But the way the sentences are constructed, they are so kilometric that we have to try to remember which is the beginning and which is the end.

Mr. President, in all honesty, I hope that we can make the laws coming out of the Senate a little more understandable even to the ordinary man on the street.

Senator Enrile. Mr. President, I am no English major but I tried my best to make it as clear as possible. Unfortunately, it is very difficult to express economic concepts in short sentences.

Senator Pimentel. Mr. President, just a suggestion. We probably should have a style committee.

Senator Enrile. I have no objection, Mr. President.

Senator Pimentel. The "styling" of the bills should now be done by the Secretariat. Because as I said, otherwise it will be a law that probably nobody will understand.

Senator Enrile. I have no objection, Mr. President.

Senator Pimentel. Subject to style, Mr. President.

Senator Enrile. Subject to style.

The President. There are no more individual amendments. What is the pleasure of the Majority Leader?

Senator Drilon. I have a pending motion for the closure of the period of individual amendments, Mr. President.

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

APPROVAL OF S. NO. 763 ON SECOND READING

Senator Drilon. Mr. President, I move that we vote on Second Reading on Senate Bill No. 763, as amended.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 763, 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. 763, as amended, is approved on Second Reading.

Senator Drilon. Mr. President, we would like to express our gratitude and congratulations to the sponsor of the measure for having guided through the legislative mill this bill, the first legislative measure that this Chamber has approved under the presidency of Sen. Marcelo Fernan.

The President. The Chair wishes to congratulate the sponsor for steering the approval of this bill in record time.

BILL ON SECOND READING

S. No. 1136 - Amending Certain Sections of RA. No. 7916, the Special Ecozone Act of 1995
(Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1136, as reported out under Committee Report No. 2.

Senator Sotto. Mr. President, as I said earlier, the reason we did not incorporate Section 10 of Senator Santiago's version and we used Section 10 of Senator Flavier's and Senator Osmeña III's version was that we thought that there will be a very big fluctuation as far as the amount is concerned. Definitely, we do not foresee a very stable peso. It has been the problem in the last so many years and we do not expect it to stabilize in the future also. That is the reason we did not include it here.

But if the gentleman feels, as the Minority Leader does, that we should place a maximum fine in this bill, then, as I said, I do not think the committee will object to this when the period of amendments comes, Mr. President.

Senator Cayetano. Thank you, Mr. President. As far as the imposition of fine, it is only being imposed on the driver. Why not on the passenger who refuses upon being notified or advised by the driver? Why not impose a penalty or fine on the passenger too?

Senator Sotto. Mr. President, it is the driver who controls the car. Just like a ship, he is the captain of the ship. I think it would be quite difficult to impose fines on the passengers.

This was brought out during the public hearings. There was somebody who asked, "What if the employer sits in front and does not want to buckle up? His driver tells him to, 'Boss, please buckle up because I will be fined'." And the employer says that he does not want to.

They asked me whether we should fine the employer. As I said, the general sentiment was, since the driver was the one in control, he should be fined. The passenger, whether he is the employer or not, if he does not want to wear a seat belt, in case he is not caught and he is not fined, or the driver is not fined, and he meets an accident, then the possibility of his death is greater or he might suffer serious injury.

Senator Cayetano. Finally, Mr. President, would failure to wear a seat belt be considered an evidence of reckless imprudence or simple negligence in the case where death or injury is suffered by a passenger as far as the Penal Code is concerned, if the gentleman knows?

Senator Sotto. The distinguished gentleman is an expert on law, Mr. President. I can only guess. I think it could probably be considered contributory negligence. I am not sure. I would rather leave that to the legal practitioners in the House.

Senator Cayetano. As I said, this is a very important legislation whose time has come. Indeed, I am sure that as the cosponsor has said, this would save a lot of lives, broken ribs and limbs.

Thank you, Mr. President. Once again, I congratulate the cosponsor of this bill.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1137

Senator Drilon. Mr. President, I move for the suspension of consideration of Senate Bill No. 1137, as reported out under Committee Report No. 3.

The President. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 1137 is hereby suspended.

SUSPENSION OF CONSIDERATION OF S. NO. 763

Senator Drilon. Also, may we indicate on the *Record* that consideration of Senate Bill No. 763, as reported out under Committee Report No. 1, has been suspended. I failed to manifest that earlier, Mr. President.

The President. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 763 is likewise suspended.

BILL ON SECOND READING

S. No. 1136--Establishment of Ecozones (Continuation)

Senator Drilon. Mr. President, with the permission of the Chamber, may we resume consideration of Senate Bill No. 1136 as reported out under Committee Report No. 2.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 1136 under Committee Report No. 2 is hereby resumed.

Senator Drilon. We are now in the period of committee amendments. May I ask the Chair to recognize Sen. Sergio Osmeña III for the committee amendments.

COMMITTEE AMENDMENTS

The President. Sen. Sergio Osmeña III is recognized for the committee amendments.

Senator Osmeña III. Thank you, Mr. President. Our first amendment to the bill is on page 1, line 11. After the word "ecozone", we move to insert the phrase MAY BE PUBLICLY OR PRIVATELY OWNED AND.

Senator Drilon. I move to approve the amendment of the committee.