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[REPUBLIC ACT NO. 10863]

AN ACT MODERNIZING THE CUSTOMS AND TARIFF
ADMINISTRATION

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

TITLE I

PRELIMINARY PROVISIONS

CHAPTER 1

SHORT TITLE

SECTION 100. *Short Title.* — This Act shall be known as the "Customs Modernization and Tariff Act (CMTA)".

CHAPTER 2

GENERAL AND COMMON PROVISIONS

SEC. 101. *Declaration of Policy.* — It is hereby declared the policy of the State to protect and enhance government revenue, institute fair and transparent customs and tariff management that will efficiently facilitate international trade, prevent and curtail any form of customs fraud and illegal acts, and modernize customs and tariff administration. Towards this end, the State shall:

(a) Develop and implement programs for the continuous enhancement of customs systems and processes that will harmonize customs procedures;

(b) Adopt clear and transparent customs rules, regulations, policies and procedures, consistent with international standards and customs best practices;

(c) Establish a regime of transparency of and accessibility to customs information, customs laws, rules, regulations, administrative policies, procedures and practices, in order to ensure informed and diligent compliance with customs practices and procedures by stakeholders;

(d) Consult, coordinate and cooperate with other government agencies and the private sector in implementing and developing customs policy;

(e) Provide a fair and expeditious administrative and judicial appellate remedy for customs related grievances and matters;

(f) Employ modern practices in customs administration and utilize information and communications technology in the implementation of customs functions; and

(g) Institute professionalism and meritocracy in customs tax administration by attracting and retaining competent and capable customs officers and personnel to enforce the provisions of this Act.

SEC. 102. *Definition of Terms.* — As used in this Act:

(a) *Abatement* refers to the reduction or diminution, in whole or in part, of duties and taxes where payment has not been made;

(b) *Actual or Outright Exportation* refers to the customs procedure applicable to goods which, being in free circulation, leave the Philippine territory and are intended to remain permanently outside it;

(c) *Admission* refers to the act of bringing imported goods directly or through transit into a free zone;

(d) *Airway Bill (AWB)* refers to a transport document for airfreight used by airlines and international freight forwarders which specify the holder or consignee of the bill who has the right to claim delivery of the goods when they arrive at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to airlines and carriers, a description of the goods, and applicable transportation charges;

(e) *Appeal* refers to the remedy by which a person who is aggrieved or adversely affected by any action, decision, order, or omission of the Bureau, seeks redress before the Bureau, the Secretary of Finance, or competent court, as the case may be;

(f) *Assessment* refers to the process of determining the amount of duties and taxes and other charges due on imported and exported goods;

(g) *Authorized Economic Operator (AEO)* refers to the importer, exporter, customs broker, forwarder, freight forwarder, transport provider, and any other entity duly accredited by the Bureau based on the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade, the Revised Kyoto Convention (RKC), the WCO Supply Chain Management Guidelines and the various national best practices to promote trade facilitation and to provide a seamless movement of goods across borders through secure international trade supply chains with the use of risk management and modern technology;

(h) *Bill of Lading (B/L)* refers to a transport document issued by shipping lines, carriers and international freight forwarders or non-vessel operating common carrier for water-borne freight. The holder or consignee of the bill has the right to claim delivery of the goods at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to shipping lines and carriers, a description of the goods, and applicable transportation charges;

(i) *Bureau* refers to the Bureau of Customs;

(j) *Carrier* refers to the person actually transporting goods or in charge of or responsible for the operation of the means of transport such as airlines, shipping lines, freight forwarders, cargo consolidators, non-vessel operating common carriers and other international transport operators;

(k) *Clearance* refers to the completion of customs and other government formalities necessary to allow goods to enter for consumption, warehousing, transit or transshipment, or to be exported or placed under another customs procedure;

(l) *Commission* refers to the Tariff Commission;

(m) *Conditional Importation* refers to the customs procedure known under the RKC as temporary admission in which certain goods can be brought into a customs territory conditionally relieved, totally or partially, from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for reexportation within a specified period and without having undergone any substantial change except due to normal depreciation;

(n) *Customs Broker* refers to any person who is a *bona fide* holder of a valid Certificate of Registration/Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission pursuant to Republic Act No. 9280, as amended, otherwise known as the "Customs Brokers Act of 2004";

(o) *Customs Office* refers to any customs administrative unit that is competent and authorized to perform all or any of the functions enumerated under customs and tariff laws;

(p) *Customs Officer*, as distinguished from a clerk or employee, refers to a person whose duty, not being clerical or manual in nature, involves the exercise of discretion in performing the function of the Bureau. It may also refer to an employee

authorized to perform a specific function of the Bureau as provided in this Act;

(q) *Customs Territory* refers to areas in the Philippines where customs and tariff laws may be enforced;

(r) *Entry* refers to the act, documentation and process of bringing imported goods into the customs territory, including goods coming from free zones;

(s) *Exportation* refers to the act, documentation, and process of bringing goods out of Philippine territory;

(t) *Export Declaration* refers to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed for taking out or causing to be taken out any exported goods and the particulars of which the customs administration shall require;

(u) *Flexible Clause* refers to the power of the President upon recommendation of the National Economic and Development Authority (NEDA): (1) to increase, reduce or remove existing protective tariff rates of import duty, but in no case shall be higher than one hundred percent (100%) *ad valorem*; (2) to establish import quota or to ban importation of any commodity as may be necessary; and (3) to impose additional duty on all import not exceeding ten percent (10%) *ad valorem*, whenever necessary;

(v) *Foreign Exporter* refers to one whose name appears on documentation attesting to the export of the product to the Philippines regardless of the manufacturer's name in the invoice;

(w) *Free Zone* refers to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special

Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law;

(x) *Goods* refer to articles, wares, merchandise and any other items which are subject of importation or exportation;

(y) *Goods Declaration* refers to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require;

(z) *Importation* refers to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission as defined in this Act;

(aa) *Freight Forwarder* refers to a local entity that acts as a cargo intermediary and facilitates transport of goods on behalf of its client without assuming the role of a carrier, which can also perform other forwarding services, such as booking cargo space, negotiating freight rates, preparing documents, advancing freight payments, providing packing/crating, trucking and warehousing, engaging as an agent/representative of a foreign non-vessel operating as a common carrier/cargo consolidator named in a master bill of lading as consignee of a consolidated shipment, and other related undertakings;

(bb) *International Freight Forwarder* refers to persons responsible for the assembly and consolidation of shipments into single lot, and assuming, in most cases, the full responsibility for the international transport of such shipment from point of receipt to the point of destination;

(cc) *Jurisdictional Control* refers to the power and rights of the Bureau in exercising supervision and police authority over all seas within the jurisdiction of the Philippine territory

and over all coasts, ports, airports, harbors, bays, rivers and inland waters whether navigable or not from the sea;

(dd) *Lodgement* refers to the registration of a goods declaration with the Bureau;

(ee) *Non-Vessel Operating Common Carrier (NVOCC)* refers to an entity, which may or may not own or operate a vessel that provides a point-to-point service which may include several modes of transport and/or undertakes group age of less container load (LCL) shipments and issues the corresponding transport document;

(ff) *Outright Smuggling* refers to an act of importing goods into the country without complete customs prescribed importation documents, or without being cleared by customs or other regulatory government agencies, for the purpose of evading payment of prescribed taxes, duties and other government charges;

(gg) *Perishable Good* refers to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable;

(hh) *Port of Entry* refers to a domestic port open to both domestic and international trade, including principal ports of entry and subports of entry. A principal port of entry is the chief port of entry of the Customs District wherein it is situated and is the permanent station of the District Collector of such port. Subports of entry are under the administrative jurisdiction of the District Collector of the principal port of entry of the Customs District. Port of entry as used in this Act shall include airport of entry;

(ii) *Port of Discharge*, also called *Port of Unloading*, refers to a place where a vessel, ship, aircraft or train unloads its shipments, from where they will be dispatched to their respective consignees;

(ii) *Reexportation* means exportation of goods which have been imported;

(kk) *Release of Goods* refers to the action by the Bureau to permit goods undergoing clearance to be placed at the disposal of the party concerned;

(ll) *Refund* refers to the return, in whole or in part, of duties and taxes paid on goods;

(mm) *Security* refers to any form of guaranty, such as a surety bond, cash bond, standby letter of credit or irrevocable letter of credit, which ensures the satisfaction of an obligation to the Bureau;

(nn) *Smuggling* refers to the fraudulent act of importing any goods into the Philippines, or the act of assisting in receiving, concealing, buying, selling, disposing or transporting such goods, with full knowledge that the same has been fraudulently imported, or the fraudulent exportation of goods. Goods referred to under this definition shall be known as smuggled goods;

(oo) *Taxes* refer to all taxes, fees and charges imposed under this Act and the National Internal Revenue Code (NIRC) of 1997, as amended, and collected by the Bureau;

(pp) *Technical Smuggling* refers to the act of importing goods into the country by means of fraudulent, falsified or erroneous declaration of the goods to its nature, kind, quality, quantity or weight, for the purpose of reducing or avoiding payment of prescribed taxes, duties and other charges;

(qq) *Tentative Release* refers to a case where the assessment is disputed and pending review, an importer may put up a cash bond equivalent to the duties and taxes due on goods before the importer can obtain the release of said goods;

(rr) *Transit* refers to the customs procedure under which goods, in its original form, are transported under customs control from one customs office to another, or to a free zone;

(ss) *Transshipment* refers to the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation;

(tt) *Traveler* refers to any person who temporarily enters the territory of a country in which he or she does not normally resides (non-resident), or who leaves that territory, and any person who leaves the territory of a country in which he or she normally resides (departing resident) or who returns to that territory (returning resident); and

(uu) *Third Party* refers to any person who deals directly with the Bureau, for and on behalf of another person, relating to the importation, exportation, movement or storage of goods.

SEC. 103. *When Importation Begins and Deemed Terminated.* — Importation begins when the carrying vessel or aircraft enters the Philippine territory with the intention to unload therein. Importation is deemed terminated when:

(a) The duties, taxes and other charges due upon the goods have been paid or secured to be paid at the port of entry unless the goods are free from duties, taxes and other charges and legal permit for withdrawal has been granted; or

(b) In case the goods are deemed free of duties, taxes and other charges, the goods have legally left the jurisdiction of the Bureau.

SEC. 104. *When Duty and Tax are Due on Imported Goods.* — Except as otherwise provided for in this Act or in other laws, all goods, when imported into the Philippines, shall be subject to duty upon importation, including goods previously exported from the Philippines.

Unpaid duties, taxes and other charges, shall incur legal interest of twenty percent (20%) *per annum* computed from the date of final assessment under Section 429 of this Act, when

payment becomes due and demandable. The legal interest shall likewise accrue on any fine or penalty imposed.

Upon payment of the duties, taxes and other charges, the Bureau shall issue the necessary receipt or document as proof of such payment.

SEC. 105. Effective Date of Rate of Import Duty. - Imported goods shall be subject to the import duty rates under the applicable tariff heading that are effective at the date of importation or upon withdrawal from the warehouse for consumption. In case of withdrawal from free zones for introduction to the customs territory, the duty rate at the time of withdrawal shall be applicable on the goods originally admitted, whether withdrawn in its original or advanced form.

In case of goods sold at customs public auction, the duty rates at the date of the auction shall apply for purposes of implementing Section 1143(a) of this Act.

SEC. 106. Declarant. - A declarant may be a consignee or a person who has the right to dispose of the goods. The declarant shall lodge a goods declaration with the Bureau and may be:

- (a) The importer, being the holder of the bill of lading; or
- (b) The exporter, being the owner of the goods to be shipped out; or
- (c) A customs broker acting under the authority of the importer or from a holder of the bill; or
- (d) A person duly empowered to act as agent or attorney-in-fact for each holder.

In case the consignee or the person who has the right to dispose of the goods is a juridical person, it may authorize a responsible officer of the company to sign the goods declaration as declarant on its behalf.

The goods declaration submitted to the Bureau shall be processed by the declarant or by a licensed customs broker: *Provided*, That for importations, a transition period of two (2) years from the effectivity of this Act is hereby provided during which subparagraph (d) of this section shall not be implemented by the Bureau: *Provided, further*, That after two (2) years from the effectivity of this Act, subparagraph (d) of this section shall take into effect consistent with international standards and customs best practices.

SEC. 107. Rights and Responsibilities of the Declarant. - The declarant shall be responsible for the accuracy of the goods declaration and for the payment of all duties, taxes and other charges due on the imported goods. The licensed customs broker shall likewise be responsible for the accuracy of the goods declaration but shall not be responsible for the payment of duties, taxes and other charges due on the imported goods.

The declarant shall sign the goods declaration, even when assisted by a licensed customs broker, who shall likewise sign the goods declaration.

SEC. 108. Penalties for Errors in Goods Declaration. - The Bureau shall not impose substantial penalties for errors when such errors are inadvertent and there was no fraudulent intent or gross negligence in the commission thereof: *Provided*, That in order to discourage repetition of such errors, a penalty may be imposed but shall not be excessive.

SEC. 109. Application of Information and Communications Technology. - In accordance with international standards, the Bureau shall utilize information and communications technology to enhance customs control and to support a cost-effective and efficient customs operations geared towards a paperless customs environment.

The Bureau shall communicate, exchange and process trade- and logistics-related information in the national and regional level for the efficient and prompt clearance of goods and commodities in a technology-neutral and secured infrastructure for business, industries, and government.

The security of data and communication shall be in a manner that is consistent with applicable local and internationally accepted standards on information security.

The Bureau shall likewise include as part of its systems and processes, a disaster preparedness and recovery plan to ensure business continuity by maintaining its uptime goal for its electronic and online services.

For purposes of customs procedures, electronic documents, permits, licenses or certificates shall be acceptable and shall have the legal effect, validity or enforceability as any other document or legal writing: *Provided*, That when the prescribed requirements are duly complied with, the Bureau shall:

- (a) Recognize the authenticity and reliability of electronic documents;
- (b) Transmit approval in the form of electronic data messages or electronic documents; and
- (c) Require and/or accept payments and issue receipts acknowledging such payments through systems using electronic data messages or electronic documents.

The introduction and implementation of information and communications technology shall be undertaken with due consultation with directly affected parties and stakeholders.

SEC. 110. *Relationship Between the Bureau and Third Parties.* — Parties may transact business with the Bureau either directly or through a designated third party to act on their behalf.

The customs transactions directly transacted by a party shall not be treated less favorably or be subject to more stringent requirements than those transacted through a designated third party.

A designated third party shall have the same rights and obligations as the designating party when transacting business with the Bureau.

Subject to the provisions of existing laws, treaties, convention and international agreements, the Secretary of Finance shall make the necessary guidelines for the defined relationship of the Bureau and third parties.

SEC. 111. *Information of General Application.* — All laws, decisions, rulings, circulars, memoranda and orders of the Bureau shall be published in accordance with law.

To foster an informed compliance regime, the Bureau shall ensure that all relevant and available information of general application pertaining to customs operations and procedures which are not confidential or intended for the Bureau's internal use only, shall be readily accessible to any interested person.

Any new information, amendment or changes in customs law, administrative procedures or requirements, shall, as far as practicable, be made readily available prior to its effective date of implementation unless advance notice is precluded.

SEC. 112. *Information of a Specific Nature.* — The Bureau shall provide information, not otherwise confidential or for the Bureau's internal use only, relating to a specific matter as may be requested by an interested party for legitimate use.

The Bureau may require the payment of a reasonable fee in providing such information. The requested information shall be released within reasonable time from the filing of the request and payment of the required fee.

SEC. 113. *Decision and Ruling.* — The Bureau shall, consistent with Section 1502 of this Act, issue binding and advance decision and ruling at the request of an interested party on matters pertaining to importation or exportation of goods.

Upon written request of the interested party, the Bureau shall notify the party of its decision in writing within the period specified in this Act or by regulation. Should the decision be adverse to the requesting interested party, the reasons thereof shall be indicated and the party shall be advised of the party's right of appeal.

The ruling and decision shall be issued by the Bureau within thirty (30) days from the submission of the necessary documents and information.

SEC. 114. *Right of Appeal, Forms and Ground.* - Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.

An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.

The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal.

CHAPTER 3

TYPES OF IMPORTATION

SEC. 115. *Treatment of Importation.* - Imported goods shall be deemed "entered" in the Philippines for consumption when the goods declaration is electronically lodged, together with any required supporting documents, with the pertinent customs office.

SEC. 116. *Free Importation and Exportation.* - Unless otherwise provided by law or regulation, all goods may be freely imported into and exported from the Philippines without need for import and export permits, clearances or licenses.

SEC. 117. *Regulated Importation and Exportation.* - Goods which are subject to regulation shall be imported or exported only after securing the necessary goods declaration or export declaration, clearances, licenses, and any other requirements, prior to importation or exportation. In case of importation, submission of requirements after arrival of the goods but prior to release from customs custody shall be allowed but only in cases provided for by governing laws or regulations.

SEC. 118. *Prohibited Importation and Exportation.* - The importation and exportation of the following goods are prohibited:

(a) Written or printed goods in any form containing any matter advocating or inciting treason, rebellion, insurrection, sedition against the government of the Philippines, or forcible resistance to any law of the Philippines, or written or printed goods containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines;

(b) Goods, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises, describes or gives direct or indirect information where, how or by whom unlawful abortion is committed;

(c) Written or printed goods, negatives or cinematographic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character;

(d) Any goods manufactured in whole or in part of gold, silver or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloys;

(e) Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;

(f) Infringing goods as defined under the Intellectual Property Code and related laws; and

(g) All other goods or parts thereof, which importation and exportation are explicitly prohibited by law or rules and regulations issued by the competent authority.

SEC. 119. *Restricted Importation and Exportation.* — Except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

(a) Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof;

(b) Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof;

(c) Lottery and sweepstakes tickets, except advertisements thereof and lists of drawings therein;

(d) Marijuana, opium, poppies, coca leaves, heroin or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, except when imported by the government of the Philippines or any person duly authorized by the Dangerous Drugs Board, for medicinal purposes;

(e) Opium pipes or parts thereof, of whatever material; and

(f) Any other goods whose importation and exportation are restricted.

The restriction to import or export the above stated goods shall include the restriction on their transit.

CHAPTER 4

RELIEF CONSIGNMENT

SEC. 120. *Relief Consignment.* — Goods such as food, medicine, equipment and materials for shelter, donated or leased to government institutions and accredited private entities for free distribution to or use of victims of calamities shall be treated and entered as relief consignment.

Upon declaration of a state of calamity, clearance of relief consignment shall be a matter of priority and subject to a simplified customs procedure. The Bureau shall provide for:

(a) Lodging of a simplified goods declaration or of a provisional or incomplete goods declaration subject to completion of the declaration within a specified period;

(b) Lodging, registering and checking of the goods declaration and supporting documents prior to the arrival of the goods, and their release upon arrival;

(c) Clearance beyond the designated hours of business or away from customs offices and waiver of any corresponding charges; and

(d) Examination and/or sampling of goods only in exceptional circumstances.

The Department of Finance (DOF) and the Department of Social Welfare and Development (DSWD) shall jointly issue the rules and regulations for the implementation of this provision.

SEC. 121. *Duty and Tax Treatment.* — Relief consignment, as defined in Section 120, imported during a state of calamity and intended for a specific calamity area for the use of the calamity victims therein, shall be exempt from duties and taxes.

TITLE II

BUREAU OF CUSTOMS

CHAPTER 1

GENERAL ADMINISTRATION

SEC. 200. *Chief Officials of the Bureau.* — The Bureau shall be headed by a Commissioner and shall be assisted by at least four (4) but not more than six (6) Deputy Commissioners.

The Commissioner shall be appointed by the President of the Philippines.

The Deputy Commissioners shall also be appointed by the President and at least majority of whom shall come from the ranks of the Bureau.

SEC. 201. *Powers and Functions of the Commissioner.* — The Commissioner shall have the following powers and functions:

- (a) Exclusive and original jurisdiction to interpret the provisions of this Act, in collaboration with other relevant government agencies, subject to review by the Secretary of Finance;
- (b) Exercise any customs power, duties and functions, directly or indirectly;
- (c) Review any action or decision of any customs officer performed pursuant to the provisions of this Act;
- (d) Review and decide disputed assessments and other matters related thereto, subject to review by the Secretary of Finance and exclusive appellate jurisdiction of the Court of Tax Appeals (CTA);
- (e) Delegate the powers vested under this Act to any customs officer with the rank equivalent to division chief or higher, except for the following powers and functions:

- (1) Promulgation of rules and regulations;
 - (2) Issuance, revocation or modification of rulings; and
 - (3) Compromise or abate of customs obligations.
- (f) Assignment or reassignment of any customs officer subject to the approval of the Secretary of Finance: *Provided*, That District Collectors and other customs officers that perform assessment functions shall not remain in the same area of assignment for more than three (3) years; and
- (g) Perform all other duties and functions as may be necessary for the effective implementation of this Act and other customs related laws.

SEC. 202. *Functions of the Bureau.* — The Bureau shall exercise the following duties and functions:

- (a) Assessment and collection of customs revenues from imported goods and other dues, fees, charges, fines and penalties accruing under this Act;
- (b) Simplification and harmonization of customs procedures to facilitate movement of goods in international trade;
- (c) Border control to prevent entry of smuggled goods;
- (d) Prevention and suppression of smuggling and other customs fraud;
- (e) Facilitation and security of international trade and commerce through an informed compliance program;
- (f) Supervision and control over the entrance and clearance of vessels and aircraft engaged in foreign commerce;
- (g) Supervision and control over the handling of foreign mails arriving in the Philippines for the purpose of collecting revenues and preventing the entry of contraband;

(h) Supervision and control on all import and export cargoes, landed or stored in piers, airports, terminal facilities, including container yards and freight stations for the protection of government revenue and prevention of entry of contraband;

(i) Conduct a compensation study with the end view of developing and recommending to the President a competitive compensation and remuneration system to attract and retain highly qualified personnel, while ensuring that the Bureau remains financially sound and sustainable;

(j) Exercise of exclusive original jurisdiction over forfeiture cases under this Act; and

(k) Enforcement of this Act and all other laws, rules and regulations related to customs administration.

SEC. 203. *Annual Report of the Commissioner.* — The Commissioner shall submit to the President, the Congress of the Philippines and the NEDA an annual report on the performance of the Bureau, on or before March 31 of the following year.

SEC. 204. *Promulgation of Rules and Regulations.* — The Commissioner, subject to the approval of the Secretary of Finance, shall promulgate rules and regulations for the enforcement of this Act. The Commissioner shall regularly prepare and publish an updated customs manual, and the rules, regulations and decisions of the Bureau. The Commissioner shall furnish the Congress of the Philippines, the NEDA and the Tariff Commission with electronic copies of department orders, administrative orders, circulars, and rules and regulations promulgated pursuant to this Act.

SEC. 205. *Copies of Goods Declaration.* — The Commissioner shall regularly furnish the NEDA, the Philippine Statistics Authority (PSA), the Bureau of Internal Revenue (BIR) and the Tariff Commission electronic copies of all customs goods declaration processed and cleared by the Bureau.

Upon request, the Tariff Commission shall have access to, and the right to be furnished with copies of liquidated goods declaration and other documents supporting the goods declaration as finally filed in the Commission on Audit (COA).

For this purpose, the Bureau shall maintain electronic records of goods declaration and other documents supporting the declaration.

CHAPTER 2

CUSTOMS DISTRICTS AND PORTS OF ENTRY

SEC. 206. *Customs Districts.* — For administrative purposes, the Philippines shall be divided into as many Customs Districts as necessary, the respective limits of which may be changed from time to time by the Commissioner, with the approval of the Secretary of Finance.

Each Customs District shall be supervised by one (1) District Collector, assisted by as many Deputy District Collectors as may be necessary. The choice of the location of a District Office, its business hours and the staffing pattern thereof, shall be based on the particular requirements of each district.

SEC. 207. *Ports of Entry.* — All ports of entry shall be under the supervision and control of a Customs District. A District Collector shall be assigned in the principal ports of entry while a Deputy District Collector may be assigned to other types of ports of entry.

The principal ports of entry shall be located in Aparri, San Fernando, Manila, Manila International Container Port, Ninoy Aquino International Airport, Subic, Clark, Batangas, Legaspi, Iloilo, Cebu, Tacloban, Surigao, Cagayan de Oro, Zamboanga, Davao, Limay and such other ports that may be created pursuant to this Act.

For the effective enforcement of the Bureau's functions and without hampering business and commercial operations of the ports, sea ports and airport authorities and private ports and

airport operators shall provide suitable areas for examination and for other customs equipment free of charge within a definite period of time, as agreed with private port and airport operations, if any.

SEC. 208. *Power of the President to Open and Close Any Port.* -- Upon the recommendation of the Secretary of Finance, the President may open or close any port of entry. Upon closure of a port of entry, the existing personnel shall be reassigned by the Commissioner, subject to the approval of the Secretary of Finance.

SEC. 209. *Assignment of Customs Officers and Employees to Other Duties.* -- The Commissioner, with the approval of the Secretary of Finance, may assign any employee of the Bureau to any port, service, division or office of the Bureau within the Bureau's staffing pattern or organizational structure, or may assign any employee other duties: *Provided*, That such assignment shall not affect the employee's tenure of office nor result in a change of status, demotion in rank and/or salary deduction.

SEC. 210. *Duties of the District Collector.* -- The District Collector shall have the following duties in their assigned Customs District:

- (1) Ensure entry of all imported goods at the customs office;
- (2) Prevent importation and exportation of prohibited goods;
- (3) Ensure legal compliance of regulated goods and facilitate the flow of legitimate trade;
- (4) Examine, classify and value imported goods;
- (5) Assess and collect duties, taxes and other charges on imported goods;
- (6) Hold and dispose imported goods in accordance with this Act;

- (7) Prevent smuggling and other customs fraud; and
- (8) Perform other necessary duties that may be assigned by the Commissioner for the effective implementation of this Act.

Subject to the supervision and control of the District Collector, the duties and functions of the District Collector may be delegated to the Deputy District Collector. The Deputy District Collector assigned to a sub-port shall be under the supervision and control of the District Collector of the corresponding principal port.

SEC. 211. *Temporary Succession of Deputy District Collector to Position of Acting District Collector.* -- In the absence or disability of a District Collector or, in case of vacancy, the Deputy District Collector shall temporarily discharge the duties of the District Collector. Should there be no Deputy District Collector, the District Collector shall designate, in writing, a senior ranking customs officer to temporarily perform the duties of the District Collector. In case there are two (2) or more senior ranking customs officers with equal length of service, a drawing of lots shall be undertaken. The District Collector shall report the designation to the Commissioner within twenty-four (24) hours after the designation.

SEC. 212. *Records to be Kept by Customs Officers.* -- District Collectors, Deputy District Collectors, and customs officers acting in such capacities must maintain permanent records of official transactions and turn-over all records and official papers to their respective successors or other authorized officials. The records shall be made available for inspection by other authorized officials of the Bureau.

If required, the District Collector shall affix the official dry seal of the Bureau on all documents and records requiring authentication.

SEC. 213. *Reports of the District Collector to the Commissioner.* -- The District Collector shall report to the Commissioner any probable or initiated litigation within the

Customs District and shall submit regular monthly reports on all district transactions.

CHAPTER 3

EXERCISE OF POLICE AUTHORITY

SEC. 214. *Persons Exercising Police Authority.* — For the effective implementation of this Act, the following persons are authorized to effect search, seizure, and arrest:

(a) Officials of the Bureau, District Collectors, Deputy District Collectors, police officers, agents, inspectors and guards of the Bureau;

(b) Upon authorization of the Commissioner, officers and members of the Armed Forces of the Philippines (AFP) and national law enforcement agencies; and

(c) Officials of the BIR on all cases falling within the regular performance of their duties, when payment of internal revenue taxes is involved.

All officers authorized by the Commissioner to exercise police authority shall at all times coordinate with the Commissioner.

Goods seized by deputized officers pursuant to this section shall be physically turned-over immediately to the Bureau, unless provided under existing laws, rules and regulations.

For this purpose, mission orders shall clearly indicate the specific name carrying out the mission and the tasks to be carried out.

Subject to the approval of the Secretary of Finance, the Commissioner shall define the scope, areas covered, procedures and conditions governing the exercise of such police authority including custody and responsibility for the seized goods. The rules and regulations to this effect shall be furnished to the

concerned government agencies and personnel for guidance and compliance.

All seizures pursuant to this section must be effected in accordance with the provisions on the conduct of seizure proceedings provided for in Chapters 3 and 4 of Title XI of this Act.

SEC. 215. *Place Where Authority May be Exercised.* — All persons exercising police authority as described in the preceding section shall only exercise powers within customs premises as provided for in Section 303 of this Act, and within the limits of the authority granted by the Commissioner.

Port and airport authorities in all ports of entry shall provide authorized customs officers with unhindered access to all premises within their administrative jurisdiction.

SEC. 216. *Exercise of Power of Seizure.* — Any person exercising police authority under this Act has the power and duty to seize any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture or when they are subject of a fine imposed under this Act.

SEC. 217. *Duty of Officer to Disclose Official Character.* — For the proper exercise of police authority, any authorized person shall disclose the nature of the authority upon being questioned at the time of exercise thereof and shall exhibit the corresponding written authority issued by the Commissioner.

SEC. 218. *Authority to Require Assistance and Information.* — Any person exercising police authority may demand the assistance of and request information from the Philippine National Police (PNP), the AFP and other national law enforcement agencies, when necessary, to effect any search, seizure or arrest. It shall be the duty of any police officer and other national law enforcers to give such lawful assistance.

SEC. 219. *Authority to Enter Properties.* — Any person exercising police authority may, at any time, enter, pass through,

and search any land, enclosure, warehouse, store, building or structure not principally used as a dwelling house.

When a security personnel or any other employee lives in the warehouse, store, or any building, structure or enclosure that is used for storage of goods, it shall not be considered as a dwelling house for purposes of this Act.

SEC. 220. *Authority to Search Dwelling House.* - A dwelling house may be entered and searched only upon warrant issued by a Judge of a competent court, the sworn application thereon showing probable cause and particularly describing the place to be searched and the goods to be seized.

SEC. 221. *Authority to Search Vessels or Aircrafts and Persons or Goods Conveyed Therein.* - Any person exercising police authority under this Act may board, inspect, search and examine a vessel or aircraft and any container, trunk, package, box or envelope found on board, and physically search and examine any person thereon. In case of any probable violation of this Act, the person exercising police authority may seize the goods, vessel, aircraft, or any part thereof.

Such power to search includes removal of any false bottom, partition, bulkhead, or any other obstruction for the purpose of uncovering any concealed dutiable or forfeitable goods.

The proceeding herein authorized shall not give rise to any claim for damage caused to the goods, vessel or aircraft, unless there is gross negligence or abuse of authority in the exercise thereof.

SEC. 222. *Authority to Search Vehicles, Other Carriers, Persons and Animals.* - Upon reasonable cause, any person exercising police authority may open and examine any box, trunk, envelope, or other container for purposes of determining the presence of dutiable or prohibited goods. This authority includes the search of receptacles used for the transport of human remains and dead animals. Such authority likewise includes the power to stop, search, and examine any vehicle or carrier,

person or animal suspected of holding or conveying dutiable or prohibited goods.

SEC. 223. *Authority to Search Persons Arriving From Foreign Countries.* - Upon reasonable cause, travelers arriving from foreign countries may be subjected to search and detention by the customs officers. The dignity of the person under search and detention shall be respected at all times. Female inspectors may be employed for the examination and search of persons of their own sex.

SEC. 224. *Power to Inspect and Visit.* - The Commissioner or any customs officer who is authorized in writing by the Commissioner, may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage. In the event that the interested party fails to produce such evidence within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings: *Provided*, That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: *Provided, further*, That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: *Provided, finally*, That the release thereof shall not be contrary to law.

TITLE III

CUSTOMS JURISDICTION AND CUSTOMS CONTROL

CHAPTER I

CUSTOMS JURISDICTION

SEC. 300. *Customs Jurisdiction.* - For the effective implementation of this Act, the Bureau shall exercise jurisdiction over all seas within Philippine territory and all coasts, ports,

airports, harbors, bays, rivers and inland waters whether navigable or not from the sea and any means of conveyance.

The Bureau shall pursue imported goods subject to seizure during its transport by land, water and air and shall exercise jurisdiction as may be necessary for the effective enforcement of this Act. When a vessel or aircraft becomes subject to seizure for violation of this Act, a pursuit of such vessel or aircraft which began within the territorial waters or air space may continue beyond the same, and the vessel or aircraft may be seized in the high seas or international air space.

CHAPTER 2

CUSTOMS CONTROL

SEC. 301. *Customs Control Over Goods.* — All goods, including means of transport, entering or leaving the customs territory, regardless of whether they are liable to duties and taxes, shall be subject to customs control to ensure compliance with this Act.

In the application of customs control, the Bureau shall employ audit-based controls and risk management systems, use automation to the fullest extent possible, and adopt a compliance measurement strategy to support risk management.

The Bureau shall seek to cooperate and conclude mutual administrative assistance agreements with other customs administrations to enhance customs control. The Bureau shall consult, coordinate, and cooperate with other government regulatory agencies, free zones authorities, and the customs stakeholders, in general, to enhance customs control.

SEC. 302. *Enforcement of Port Regulation of the Bureau of Quarantine.* — Customs officials and employees shall cooperate with the quarantine authorities in the enforcement of the port quarantine regulations promulgated by the Bureau of Quarantine and shall give effect to the same insofar as connected with matters of shipping and navigation.

SEC. 303. *Control Over Premises Used for Customs Purposes.* — The Bureau shall, for customs purposes, have exclusive control, direction and management of customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other premises in the Customs Districts, in all cases without prejudice to the general police powers of the local government units (LGUs), the Philippine Coast Guard and of law enforcement agencies in the exercise of their respective functions.

SEC. 304. *Power of the President to Subject Premises to Customs Jurisdiction.* — When public interest requires, the President may, by executive order, declare any public wharf, landing place, infrastructure, street or land, in any port of entry under the jurisdiction of the Bureau as may be necessary, for customs purposes and/or to authorize a port or terminal operator to transfer overstaying cargoes in an inland depot or terminal.

SEC. 305. *Trespass or Obstruction of Customs Premises.* — No person shall enter or obstruct a customs office, warehouse, port, airport, wharf, or other premises under the control of the Bureau without prior authority, including the streets or alleys where these facilities are located.

SEC. 306. *Special Surveillance for the Protection of Customs Revenue and Prevention of Smuggling.* — The Bureau shall conduct surveillance on vessels or aircrafts entering Philippine territory and on imported goods entering the customs office: *Provided,* That the function of the Philippine Coast Guard to prevent and suppress the illegal entry of these goods, smuggling and other forms of customs fraud and violations of maritime law and its proper surveillance of vessels entering and/or leaving Philippine territory as provided in Republic Act No. 9993, otherwise known as the "Philippine Coast Guard Law of 2009", shall continue to be in force.

SEC. 307. *Temporary Storage of Goods.* — Subject to the rules and regulations to be issued by the Secretary of Finance, the Commissioner shall establish a system for temporary storage of imports prior to goods declaration in case of abandoned or overstaying goods.

TITLE IV

IMPORT CLEARANCE AND FORMALITIES

CHAPTER 1

GOODS DECLARATION

SEC. 400. *Goods to be Imported through Customs Office.*

- All goods imported into the Philippines shall be entered through a customs office at a port of entry, or may be admitted to or removed from a free zone as defined in this Act, as the case may be.

SEC. 401. *Imports Subject to Goods Declaration.*

Unless otherwise provided for in this Act, all imported goods shall be subject to the lodgement of a goods declaration. A goods declaration may be for consumption, for customs bonded warehousing, for admission, for conditional importation, or for customs transit.

SEC. 402. *Goods Declaration for Consumption.* - All goods declaration for consumption shall be cleared through a formal entry process except for the following goods which shall be cleared through an informal entry process:

(a) Goods of a commercial nature with Free on Board (FOB) or Free Carrier At (FCA) value of less than fifty thousand pesos (P50,000.00). Every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust this amount as provided herein to its present value, using the Consumer Price Index (CPI) as published by the PSA; and

(b) Personal and household effects or goods, not in commercial quantity, imported in a passenger's baggage or mail.

The Commissioner may adjust the value of goods of commercial nature that shall be cleared through an informal entry process without prejudice to the periodic adjustment period in subparagraph (a) of this section.

All importations entered through a formal entry process shall be covered by a letter of credit or any verifiable commercial document evidencing payment or in cases where there is no sale for export, by any commercial document indicating the commercial value of the goods.

SEC. 403. *Provisional Goods Declaration.* - Where the declarant does not have all the information or supporting documents required to complete the goods declaration, the lodging of a provisional goods declaration may be allowed: *Provided*, That it substantially contains the necessary information required by the Bureau and the declarant undertakes to complete the information or submit the supporting documents within forty-five (45) days from the filing of the provisional goods declaration, which period may be extended by the Bureau for another forty-five (45) days for valid reasons.

If the Bureau accepts a provisional goods declaration, the duty treatment of the goods shall not be different from that of goods with complete declaration.

Goods under a provisional goods declaration may be released upon posting of any required security equivalent to the amount ascertained to be the applicable duties and taxes.

SEC. 404. *Owner of Imported Goods.* - All goods imported into the Philippines shall be deemed to be the property of the consignee or the holder of the bill of lading, airway bill or other equivalent transport document if duly endorsed by the consignee therein, or, if consigned to order, duly endorsed by the consignor. The underwriters of abandoned goods and the salvors of goods saved from wreck at sea, coast, or in any area of the Philippines, may be regarded as the consignees.

SEC. 405. *Liability of Importer for Duties and Taxes.* - Unless relieved by laws or regulations, the liability for duties, taxes, fees, and other charges attached to importation constitutes a personal debt due and demandable against the importer in favor of the government and shall be discharged only upon payment of duties, taxes, fees and other charges. It also constitutes a lien on

the imported goods which may be enforced while such goods are under customs' custody.

SEC. 406. *Importations by the Government.* — Except those provided for in Section 800 of this Act, all importations by the government for its own use or that of its subordinate branches or instrumentalities, or corporations, agencies or instrumentalities owned or controlled by the government, shall be subject to the duties, taxes, fees and other charges under this Act.

SEC. 407. *Goods Declaration and Period of Filing.* — As far as practicable, the format of the goods declaration shall conform with international standards. The data required in the goods declaration shall be limited to such particulars that are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and compliance with this Act. The Bureau shall require the electronic lodgement of the goods declaration.

The Bureau shall only require supporting documents necessary for customs control to ensure that all requirements of the law have been complied with. Translation of supporting documents shall not be required except when necessary.

Goods declaration must be lodged within fifteen (15) days from the date of discharge of the last package from the vessel or aircraft. The period to file the goods declaration may, upon request, be extended on valid grounds for another fifteen (15) days: *Provided*, That the request is made before the expiration of the original period within which to file the goods declaration: *Provided, however*, That the period of the lodgement of the goods declaration may be adjusted by the Commissioner.

SEC. 408. *Lodgement and Amendment of Goods Declaration.* — The Bureau shall permit the electronic lodgement of the goods declaration at any designated customs office. The Bureau shall, for valid reason and under terms and conditions provided by regulation, permit the declarant to amend the goods declaration that has already been lodged: *Provided*, That the request to amend the goods declaration, together with the intended

amendments, must be received prior to final assessment or examination of the goods.

SEC. 409. *Advance Lodgement and Clearance.* — The Bureau may provide for the lodgement and clearance of goods declaration and supporting documents prior to the arrival of the goods under such terms and conditions as may be provided by rules and regulations to be promulgated under this Act.

SEC. 410. *Entry of Goods in Part for Consumption and in Part for Warehousing.* — Goods declaration covered by one bill of lading or airway bill over goods which are meant in part for consumption and in part for warehousing may be both entered simultaneously for release at the port of entry.

SEC. 411. *Contents of Goods Declaration.* — Goods declaration shall contain the names of the consignee, importing vessel or aircraft, port of departure, port of destination and date of arrival, the number and marks of packages, or the quantity, if in bulk, the nature and correct commodity description of the goods contained therein, its value as set forth in a proper invoice, and such other information as may be required by rules and regulations. Where the declarant does not have all the information required to make the goods declaration, a provisional or incomplete goods declaration shall, for certain cases and for reasons deemed valid by the Bureau, be allowed to be lodged: *Provided*, That it contains the particulars deemed necessary by the Bureau for the acceptance of the entry filed and that the declarant undertakes to complete it within forty-five (45) days from the filing of the provisional goods declaration in accordance with Section 403 of this Act.

SEC. 412. *Statements to be Provided in the Goods Declaration.* — No entry of imported goods shall be allowed unless the goods declaration has been lodged with the Bureau. The goods declaration shall, under penalties of falsification or perjury, contain the following statements:

(a) The invoice and goods declaration contain an accurate and faithful account of the prices paid or payable for the goods, and other adjustments to the price actually paid or payable, and

that nothing has been omitted therefrom or concealed whereby the government of the Republic of the Philippines might be defrauded of any part of the duties and taxes lawfully due on the goods; and

- (b) To the best of the declarant's information and belief, all the invoices and bills of lading or airway bills relating to the goods are the only ones in existence relating to the importation in question, and that these documents are in the same state as when they were received by the declarant, and the declaration thereon are in all respects genuine and true.

Goods declaration shall be submitted electronically pursuant to Republic Act No. 8792, otherwise known as the "Electronic Commerce Act of 2000". Such declarations when printed and certified by a competent customs officer as a faithful reproduction of the electronic submission shall be considered as actionable documents for purposes of prosecuting a declarant if the declarations are found to be fraudulent.

SEC. 413. *Description of Goods.* — Under such terms and conditions prescribed under the rules and regulations, the description of the goods in the goods declaration must be sufficient and specific in detail to enable the goods to be identified for customs valuation, statistical purposes, and classification to the appropriate tariff heading and subheading in the currency of the invoice, and in such other particulars necessary for the proper assessment and collection of duties and taxes. The quantity and value of each of the several classes of goods shall be separately declared according to their respective headings or subheadings and the totals of each heading or subheading shall be duly shown.

SEC. 414. *Commercial and Noncommercial Invoice.* — Commercial invoice of imported goods shall contain the following:

- (a) The agreed price paid or to be paid for the goods;
- (b) The adjustments to the price paid or to be paid as defined in Section 701(1) of this Act, if not yet included in the invoice, as may be applicable;

- (c) The names of the buyer, seller, and the time and place of sale;
- (d) The port of entry;
- (e) A sufficient description to enable the accurate identification of goods for tariff classification, customs valuation, and statistical purposes, indicating the correct commodity description, in customary term or commercial designation, the grade or quality, numbers, marks or symbols under which they are sold by the seller or manufacturer, together with the marks and number of packages in which the goods are packed;
- (f) The quantities in the weights or measures of the goods shipped; and
- (g) Any other fact deemed necessary for the proper examination, customs valuation, and tariff classification of the goods as may be prescribed by rules and regulations.

To the extent possible, the above requirements shall also apply to goods imported but not covered by sale, such as goods on consignment or lease, samples, or donations, covered by a consignment, *pro forma* invoice, or other noncommercial invoice.

SEC. 415. *Mode of Payment and Terms of Trade.* — Subject to existing laws and rules on foreign currency exchange, the internationally accepted standards and practices on the mode of payment or remittance covering import and export transactions, including standards developed by international trading bodies such as the International Chamber of Commerce (ICC) on trading terms (incoterms) and on international letters of credit such as the Uniform Customs and Practice for Documentary Credits (UCPDC), shall be recognized.

SEC. 416. *Examination of Samples.* — Customs officers shall see to it that representative samples taken during examination shall be properly receipted for and retained within a reasonable period of time. The quantity and value of the samples taken shall be noted in the specified box of goods declaration or

electronic form. Such samples shall be duly labeled as will definitely identify them with the importation for which they are taken.

SEC. 417. *Forwarding of Cargo and Remains of Wrecked Vessel or Aircraft.* — When vessels or aircrafts are wrecked within the Philippines, the original owners or consignees of the cargo, or by its underwriters, in case of abandonment, may seek approval from the Bureau to forward the goods saved from the wreck to the ports of destination without going through the customs office in the district in which the goods were cast ashore or unloaded. Upon approval, the goods may be forwarded with particular manifests and duly certified by a customs officer in charge of the goods.

The owner of the vessel or aircraft may be permitted to export the remains of the wreck upon proper examination and inspection. The remains of a wrecked vessel shall include not only its hull and rigging, but also all sea stores, goods and equipment, such as sails, ropes and chain anchors.

SEC. 418. *Derelicts and Goods from Abandoned Wrecks.* — Derelicts and all goods recovered from sea or from abandoned wrecks shall be under the jurisdiction of the port where the goods arrive, and shall be retained in the custody of the Bureau. If not claimed by the owner, underwriter or salvor, the same shall be deemed as property of the government.

When such goods are brought into port by lighters or other craft, each vessel shall submit a manifest of their respective cargo.

The customs officer nearest the scene of the wreck shall take charge of the goods saved and shall give immediate notice to the District Collector or the nearest customs office.

In order to prevent any attempt to commit fraud, the District Collector shall be represented at the salvage of the cargo by customs officers who shall examine and receive the inventory made on the cargo.

Derelicts and goods salvaged from foreign vessels or aircrafts recovered from sea or wreck are *prima facie* dutiable and may be entered for consumption or warehousing. If claimed to be of Philippine production, and consequently conditionally duty-free, proof must be submitted as in ordinary cases of reimportation of goods. Foreign goods landed from a vessel or aircraft in distress is dutiable if sold or disposed of in the Philippines.

Before any goods taken from a recent wreck are admitted to the customs territory, the same shall be appraised, and the owner or importer shall have the same right to appeal as in ordinary importation.

No part of a Philippine vessel or aircraft or its equipment, wrecked either in Philippine or foreign waters, shall be subject to duty.

CHAPTER 2

EXAMINATION OF GOODS

SEC. 419. *Examination of Goods.* — Examination of goods, when required by the Bureau, shall be conducted immediately after the goods declaration has been lodged. Priority in the examination shall be given to live animals, perishable goods and other goods requiring immediate examination.

Whenever necessary, a system of coordination and joint examination of goods shall be established by the Bureau and other regulatory agencies under existing laws and regulations.

As a general rule, the Bureau may examine the goods in the presence of the declarant or an authorized representative. Examination of the goods in the absence of the declarant or authorized representative may be allowed in exceptional circumstance and for valid and justifiable grounds, as may be defined by regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner. The Bureau may require the declarant to be present or to be represented at the

examination of the goods or to render any assistance necessary to facilitate the examination.

The Bureau shall take samples of the goods only when needed to establish the tariff description and value of goods declared, or to ensure compliance with this Act. Samples drawn shall be as minimal as possible.

SEC. 420. *Conditions for Examination.* - Pursuant to internationally accepted standards, the Bureau may adopt nonintrusive examination of goods, such as the use of x-ray machines.

Physical examination of the goods shall be conducted when:

- (a) It is directed by the Commissioner on account of a derogatory information;
- (b) The goods are subject to an Alert Order issued by competent authority;
- (c) The goods are electronically selected for physical examination;
- (d) There are issues and controversies surrounding the goods declaration and the import clearance process; or
- (e) The importer or declarant requests for the examination of the goods.

The Commissioner may exempt from physical examination the goods of authorized economic operators or of those provided for under any existing trade facilitation program of the Bureau.

Physical examination, when required, shall be conducted in an expeditious manner.

SEC. 421. *Duties of Customs Officer Tasked to Examine the Imported Goods.* - In the examination, classification, and valuation of the goods, the customs officer shall:

- (a) Determine whether the packages for examination and their contents are in accordance with the goods declaration, invoice and other pertinent documents;
- (b) Take samples of the imported goods for examination or laboratory analysis when necessary;
- (c) Issue a receipt for a sample taken and retained during examination; and
- (d) Report whether the goods have been correctly declared as to value, quantity, measurement, weight, tariff classification and not imported contrary to law.

Failure on the part of the customs officer to perform the above duties shall be penalized according to Section 1431 of Title XIV of this Act.

SEC. 422. *Customs Expenses Constituting Charges on Goods.* - The cost of examination shall be for the account of the importer or exporter, subject to proper accounting and documentation. All expenses incurred by the Bureau for the handling or storage of goods and other necessary operations shall be chargeable against the goods, and shall constitute a lien thereon.

CHAPTER 3

ASSESSMENT AND RELEASE

SEC. 423. *Determination of the De Minimis Value.* - No duties and taxes shall be collected on goods with an FOB or FCA value of ten thousand pesos (P10,000.00) or below. The Secretary of Finance shall adjust the *de minimis* value as provided herein, every three (3) years after the effectivity of this Act. The value herein stated shall be adjusted to its present value using the CPI, as published by the PSA

SEC. 424. Duty of Customs Officer Tasked to Assess Imported Goods. — For purposes of assessing duties and taxes on imported goods, the customs officer shall classify, value, and determine the duties and taxes to be paid. The customs officer shall prepare and submit an assessment report as established under this Act.

SEC. 425. Tentative Assessment of Goods Subject to Dispute Settlement. — Assessment shall be deemed tentative if the duties and taxes initially assessed are disputed by the importer. The assessment shall be completed upon final readjustment based on the tariff ruling in case of classification dispute, or the final resolution of the protest case involving valuation, rules of origin, and other customs issues.

The District Collector may allow the release of the imported goods under tentative assessment upon the posting of sufficient security to cover the applicable duties and taxes equivalent to the amount that is disputed.

SEC. 426. Tentative Assessment of Provisional Goods Declaration. — Assessment of a provisional goods declaration shall be deemed tentative and such assessment shall be completed upon final readjustment and submission by the declarant of the additional information or documentation required to complete the declaration within the period provided in Section 403 of this Act.

SEC. 427. Readjustment of Appraisal, Classification or Return. — Such appraisal, classification or return, as finally passed upon and approved or modified by the District Collector, shall not be altered or modified in any manner, except:

- (1) Within one (1) year after payment of the duties, upon statement of error in conformity with Section 912 of this Act, as approved by the District Collector;
- (2) Within fifteen (15) days after such payment, upon request for reappraisal or reclassification addressed to the Commissioner by the District Collector, if the appraisal or classification is deemed to be low;

- (3) Upon request for reappraisal and/or reclassification, in the form of a timely protest addressed to the District Collector by the interested party if the latter should be dissatisfied with the appraisal or return; or

- (4) Upon demand by the Commissioner after the completion of compliance audit in accordance with the provisions of this Act.

SEC. 428. Assessment of Duty on Less Than Entered Value. — Duty shall not be assessed in any case upon an amount less than the entered value, unless by direction of the Commissioner in cases when the importer certifies at the time of entry that the entered value is higher than the dutiable value and that the goods are so entered in order to meet increases made by the appraiser in similar cases then pending re-appraisal; and the lower assessment shall be allowed only when the importer's contention is sustained by a final decision, and shall appear that such action of the importer was taken in good faith after due diligence and inquiry.

SEC. 429. Final Assessment. — Assessment shall be deemed final fifteen (15) days after receipt of the notice of assessment by the importer or consignee.

SEC. 430. Period of Limitation. — In the absence of fraud and when the goods have been finally assessed and released, the assessment shall be conclusive upon all parties three (3) years from the date of final payment of duties and taxes, or upon completion of the post clearance audit.

SEC. 431. Release of Goods after Payment of Duties and Taxes. — Goods declared shall be released when duties and taxes and other lawful charges have been paid or secured and all the pertinent laws, rules and regulations have been complied with.

When the Bureau requires laboratory analysis of samples, detailed technical documents or expert advice, it may release the goods before the results of such examination are known after posting of sufficient security by the declarant.

SEC. 432. *Release of Goods to the Holder of Bill of Lading or Airway Bill.* — Any customs officer who releases goods to the consignee or lawful holder of the bill of lading or airway bill shall not be liable for any defect or irregularity in its negotiation unless the customs officer has notice of the defect or irregularity.

SEC. 433. *Release of Goods Without Production of Bill of Lading or Airway Bill.* — No customs officer shall release goods to any person without the submission of the bill of lading or airway bill covering the goods, except on written order of the carrier or agent of the vessel or aircraft, in which case neither the government nor the customs officer shall be held liable for any damage arising from wrongful release of the goods: *Provided*, That when the release of goods is made against such written order, the customs officer shall require the submission of a copy of the bill.

SEC. 434. *Release of Goods Upon Order of Importer.* — An importer may issue a written authorization for the release of goods stored in a bonded warehouse to another person. Such authorization shall not relieve the importer from liability for the duties, taxes and other charges due on the goods unless the person to whom the release was authorized assumes such liability.

SEC. 435. *Withholding Release Pending Satisfaction of Lien.* — When the District Collector is duly notified through a lawful order of a competent court of a lien for freight, lighterage or general average upon any imported goods, the District Collector shall withhold the release of the goods unless the claim has been paid or secured. In case of disagreement, the District Collector may release the goods after payment of the freight and lighterage due on the quantity or weight landed as actually determined.

SEC. 436. *Fine or Surcharge on Goods.* — Goods subject to any fine or surcharge shall be released only after the payment of the fine or surcharge.

CHAPTER 4

SPECIAL PROCEDURES

SEC. 437. *Traveler and Passenger Baggage.* — The Bureau shall provide simplified customs procedure for traveler and baggage processing based on international agreements and customs best practices.

Travelers shall be permitted to export goods for commercial purposes, subject to compliance with the necessary export formalities and payment of export duties, taxes and charges, if any.

SEC. 438. *Postal Item or Mail.* — Postal item or mail shall include letter-post and parcels, as described in international practices and agreements, such as the Acts of the Universal Postal Union (AUPU), currently in force.

A simplified procedure shall be used in the clearance of postal item or mail, including the collection of the applicable duties and taxes on such items or goods.

When all the information required by the customs are available in the special declaration form for postal items as provided in the AUPU or similar international agreements, the special declaration form and supporting documents shall be the goods declaration. However, a separate goods declaration shall be required for the following:

- (a) Goods whose value fall within the level that the Commissioner has determined to be taxable and thus must be covered by a goods declaration;
- (b) Prohibited and regulated goods;
- (c) Goods, the exportation of which must be certified; and
- (d) Imported goods under a customs procedure other than for consumption.

SEC. 439. *Express Shipment.* — The Bureau shall provide simplified customs procedures based on international standards and customs best practices for air shipments considered as time-sensitive and requiring pre-arrival clearance. Express shipments of accredited air express cargo operators may be released prior to the payment of the duty, tax and other charges upon posting of a sufficient security.

SEC. 440. *Establishment of Advance Customs Clearance and Control Program.* — The Bureau may establish and implement a voluntary program on advance customs clearance and control on containerized cargoes. The details of the voluntary advance customs clearance shall be subject to the rules and regulations to be issued by the Bureau after conducting the necessary public hearings and consultations with the concerned sectors.

TITLE V

EXPORT CLEARANCE AND FORMALITIES

CHAPTER 1

EXPORT CLEARANCE AND DECLARATION

SEC. 500. *Export Declaration.* — All goods exported from the Philippines, whether subject to export duty or not, shall be declared through a competent customs office through an export declaration, duly signed electronically or otherwise by the party making the declaration.

The description of the goods in the export declaration must contain sufficient and specific information for statistical purposes as well as for the proper valuation and classification of the goods.

SEC. 501. *Export Product to Conform to Standard Grades.* — If applicable, products shall conform to export standard grades established by the government. The packaging of the said goods shall likewise be labeled and marked in accordance with

related laws and regulations. Export declaration may not be granted for goods violating the aforementioned requirements.

SEC. 502. *Lodgement and Processing of Export Declaration.* — The Bureau shall promulgate rules and regulations to allow manual and electronic lodgement and processing of the export declaration.

SEC. 503. *Rules of Origin.* — Pursuant to the applicable rules of origin, the Bureau or any other designated government agency may determine the origin of goods for export and, if appropriate, issue the corresponding certificates of origin. However, the exporter may adopt a self-certification system: *Provided,* That it is duly accredited by the Bureau or any other authorized government agencies.

TITLE VI

CUSTOMS TRANSIT AND TRANSHIPMENT

CHAPTER 1

CUSTOMS TRANSIT

SEC. 600. *Customs Transit in the Customs Territory.* — Customs transit within the customs territory shall be allowed for goods except those intended for consumption, to be transported as follows:

- (a) From port of entry to another port of entry as exit point for outright exportation;
- (b) From port of entry to another port of entry or inland customs office;
- (c) From inland customs office to a port of entry as exit point for outright exportation; and
- (d) From one port of entry or inland customs office to another port of entry or inland customs office.

A transit permit is required for goods transported under customs transit. However, transfer of goods in customs transit from one means of transport to another shall be allowed: *Provided*, That any customs seal or fastening is not broken or tampered.

The party responsible for the compliance of the obligations imposed on customs transit shall ensure that the goods are presented intact and in due course at the customs office of destination. Failure to comply with the aforementioned obligations or likewise failure to follow a prescribed itinerary or period for delivery of the goods may immediately subject the goods to the corresponding duties, taxes and other applicable fines, penalties, and surcharges.

SEC. 601. *Duty and Tax on Goods Intended for Transit.*
 - Transit goods admitted for storage in a customs bonded warehouse, or for outright exportation at the port of destination or inland customs office, and goods intended for transit covered by Republic Act No. 10668, otherwise known as "An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Cargoes for Domestic Transshipment and for Other Purposes", shall not be subject to the payment of duties and taxes at the port of entry: *Provided*, That any conditions and security required by the Bureau are complied with.

Goods for consumption and other goods intended for customs transit not covered by the immediately preceding paragraph shall be subject to the payment of duties and taxes at the port of discharge.

SEC. 602. *Carrier's Security.* - Carriers that transport imported goods that shall be placed under customs transit from a port of entry to other ports, shall post a general transportation security amounting to at least fifty thousand pesos (P50,000.00). Such security shall ensure the complete and immediate delivery of goods to the customs officer at the port of destination and the payment of pertinent customs charges and expenses and other transfer costs. The amount of the security may be adjusted by the Commissioner, upon approval of the Secretary of Finance.

CHAPTER 2

CUSTOMS TRANSSHIPMENT

SEC. 603. *Customs Transshipment.* - Goods admitted for transshipment shall not be subject to the payment of duties and taxes: *Provided*, That the goods declaration for customs transshipment particularly indicates such nature of the goods, duly supported by commercial or transport documents or evidence as required by the Bureau.

Goods for transshipment must be exported from the Philippines within thirty (30) days from arrival thereof. The Commissioner may allow an extension of such period after the establishment of valid reasons.

SEC. 604. *Goods Entered for Immediate Reexportation.* - Where an intent of reexportation of the goods is shown by the bill of lading, invoice, manifest, or other satisfactory evidence, the whole or a part of a bill comprising not less than one package may be entered for immediate reexportation under security. The District Collector shall designate the vessel or aircraft in which the goods are loaded constructively as a warehouse to facilitate the direct transfer of the goods to the exporting vessel or aircraft.

Unless it shall appear in the bill of lading, airway bill, invoice, manifest, or other satisfactory evidence, that goods arriving in the Philippines are destined for transshipment, no exportation thereof will be permitted except under entry for immediate reexportation under sufficient security in an amount equal to the ascertained duties, taxes and other charges.

Upon the reexportation of the goods, and the production of proof of landing beyond the limits of the Philippines, the security shall be released.

TITLE VII

IMPORT DUTY AND TAX

CHAPTER I

BASIS OF VALUATION

SEC. 700. *Sequential Application of Valuation Methods.*
 - Imported goods shall be valued in accordance with the provisions of Section 701 of this Act whenever the conditions prescribed therein are fulfilled.

Where the customs value cannot be determined under the provisions of Section 701 of this Act, it is to be determined by proceeding sequentially through the succeeding sections hereof to the first such section under which the customs value can be determined. Except as provided in Section 704 of this Act, it is only when the customs value cannot be determined under the provisions of a particular section that the provisions of the next section in the sequence can be used.

If the importer does not request that the order of Sections 704 and 705 of this Act be reversed, the normal order of the sequence is to be followed. If the importer so requests but it is impossible to determine the customs value under Section 705 of this Act, the customs value shall be determined under Section 704.

When the customs value cannot be determined under Sections 701 through 705, it may be determined under Section 706 of this Act.

SEC. 701. *Transaction Value System - Method One.* -
 The transaction value shall be the price actually paid or payable for the goods when sold for export to the Philippines adjusted in accordance with the provisions of this section: *Provided, That:*

- (a) There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:

(i) Are imposed or required by law or by Philippine authorities;

(ii) Limit the geographical area in which the goods may be resold; or

(iii) Do not substantially affect the value of the goods;

(b) The sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued; and

(c) The buyer and the seller are not related, or where the buyer and the seller are related, that the transaction value is acceptable for customs purposes under the provisions hereof.

For purposes of this Act, persons shall be deemed related only if:

(i) They are officers or directors of one another's business;

(ii) They are legally recognized partners in business;

(iii) There exists an employer-employee relationship between them;

(iv) Any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stocks or shares of both seller and buyer;

(v) One of them directly or indirectly controls the other;

(vi) Both of them are directly or indirectly controlled by a third person;

(vii) Together they directly or indirectly control a third person; or

(viii) They are members of the same family, including those related by affinity or consanguinity up to the fourth civil degree.

Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Act if they fall within any of the eight (8) cases cited in the preceding paragraph.

In a sale between related persons, the transaction value shall be accepted as basis for customs valuation whenever the importer demonstrates that such value closely approximates one of the following occurring at or about the same time:

- (a) The transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;
- (b) The customs value of identical or similar goods as determined under the provisions of Section 704 of this Act; or
- (c) The customs value of identical or similar goods are determined under the provisions of Section 705 of this Act.

In determining the transaction value, the following shall be added to the price actually paid or payable for the imported goods:

- (1) To the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:
 - (a) Commissions and brokerage fees except buying commissions;
 - (b) Cost of containers;
 - (c) Cost of packing, whether for labor or materials;
 - (d) Value, apportioned as appropriate, of the following goods and services: materials, components, parts and similar items

items used in the production of imported goods; materials consumed in the production of the imported goods; and engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods; and

- (e) Amount of royalties and license fees related to the goods being valued that the buyer must pay either directly or indirectly, as a condition of sale of the goods to the buyer.
- (2) Value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- (3) Cost of transport of the imported goods from the port of exportation to the port of entry in the Philippines;
- (4) Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and
- (5) Cost of insurance.

All additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

SEC. 702. Transaction Value of Identical Goods – Method Two. – Where the dutiable value cannot be determined under method one, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. For purposes of this section, "Identical goods" refer to goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearances shall not preclude goods otherwise conforming to the definition from being regarded as identical.

If in applying this section, more than one transaction value of identical goods are found, the lowest value shall be used to determine the customs value.

SEC. 703. Transaction Value of Similar Goods – Method Three. – Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. For purposes of this section, "Similar goods" refer to goods which, although not alike in all respects, have like characteristics and similar component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, its reputation and the existence of a trademark shall be among the factors to be considered in determining whether goods are similar.

If in applying this section, more than one transaction value of identical goods are found, the lowest such value shall be used to determine the customs value.

SEC. 704. Deductive Value – Method Four. – Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the deductive value unless otherwise requested by the importer as provided in Section 700 hereof. The deductive value which shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Philippines, in the same condition as when imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons not related to the persons from whom they buy such goods, subject to deductions for the following:

- (1) Either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;
- (2) The usual costs of transport and insurance and associated costs incurred within the Philippines;

(3) Where appropriate, the costs of: (i) transport of the imported goods from the port of exportation to the port of entry in the Philippines; (ii) loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and (iii) insurance; and

(4) The customs duties and other national taxes payable in the Philippines by reason of the importation or sale of the goods.

If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued in the Philippines in the conditions they were imported, the customs value shall, subject to the conditions set forth in the preceding paragraph, be based on the unit price at which the imported goods or identical or similar imported goods sold in the Philippines in the condition they were imported and at the earliest date after the importation of the goods being valued, but before the expiration of ninety (90) days after such importation.

If neither the imported goods nor identical nor similar imported goods are sold in the Philippines in the condition as imported, then, if the importer so requests, the dutiable value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Philippines who are not related to the persons from whom they buy such goods, subject to allowance for the value added by such processing and deductions provided under subsections (1), (2), (3) and (4) hereof.

SEC. 705. Computed Value – Method Five. – Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the computed value of the sum of:

- (1) The cost or the value of materials and fabrication or other processing employed in producing the imported goods;
- (2) The amount for profit and general expenses equal to that usually reflected in the sale of goods of the same class or

kind as the goods being valued which are made by producers in the country of exportation for export to the Philippines;

(3) The freight, insurance fees and other transportation expenses for the importation of the goods;

(4) Any assist, if its value is not included under paragraph (1) hereof; and

(5) The cost of containers and packing, if their values are not included under paragraph (1) hereof.

The Bureau shall not require or compel any person not residing in the Philippines to produce for examination, or to allow access to, any account or other record for the purpose of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value may be verified in another country with the agreement of the producer and provided that said producer will give sufficient advance notice to the government of the country in question and that the latter does not object to the investigation.

SEC. 706. Fallback Value—Method Six.—If the dutiable value cannot be determined under the preceding methods described above, it shall be determined by using other reasonable means and on the basis of data available in the Philippines. If the importer so requests, the importer shall be informed in writing of the dutiable value determined under method six and the method used to determine such value.

No dutiable value shall be determined under method six on the basis of:

(1) The selling price in the Philippines of goods produced in the Philippines;

(2) A system that provides for the acceptance for customs purposes of the higher of two (2) alternative values;

(3) The price of goods in the domestic market of the country of exportation;

(4) The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with method five hereof;

(5) The price of goods for export to a country other than the Philippines;

(6) Minimum customs values; or

(7) Arbitrary or fictitious values.

SEC. 707. Ascertainment of the Accuracy of the Declared Value.—Nothing in this section shall be construed as restricting or calling into question the right of the Bureau to ascertain the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and when the Bureau has reason to doubt the truth or accuracy of the particulars or of documents produced in support of such declaration, it may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Section 701 of this Act.

If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon posting of a sufficient security in an amount equivalent to the duties and taxes in dispute conditioned on the payment of additional duties and taxes, if any, as may be determined: *Provided*, That prohibited goods shall not be released under any circumstance.

If, after receiving further information, or in the absence of a response, the Bureau still has reasonable doubts on the truth or accuracy of the declared value, it may deem that the customs value of the imported goods cannot be determined under method

one, without prejudice to an importer's right to appeal pursuant to Section 1104 of this Act. Before taking a final decision, the District Collector shall communicate to the importer, in writing if requested, the grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond. When a final decision is made, the Bureau shall communicate its decision and the grounds therefor in writing.

SEC. 708. *Exchange Rate.* — For the assessment and collection of import duty upon imported goods and for other purposes, the value and prices thereof quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange or value specified or published, from time to time, by the Bangko Sentral ng Pilipinas (BSP).

CHAPTER 2

SPECIAL DUTIES AND TRADE REMEDY MEASURES

SEC. 709. *Government's Right of Compulsory Acquisition.* — In order to protect government revenues against undervaluation of goods, the Commissioner may, *motu proprio* or upon the recommendation of the District Collector, acquire imported goods under question for a price equal to their declared customs value plus any duties already paid on the goods, payment for which shall be made within ten (10) working days from issuance of a warrant signed by the Commissioner for the acquisition of such goods.

An importer who is dissatisfied with a decision of the Commissioner pertaining to this section may, within twenty (20) working days after the date on which notice of the decision is given, appeal to the Secretary of Finance, and thereafter if still dissatisfied, to the CTA as provided for in Section 1136 of this Act.

Where no appeal is made by the importer, or upon reaffirmation of the Commissioner's decision during the appeals

process, the Bureau or its agents shall sell the acquired goods pursuant to existing laws and regulations.

Nothing in this section limits or affects any other powers of the Bureau with respect to the disposition of the goods or any liability of the importer or any other person with respect to an offense committed in the importation of the goods.

SEC. 710. *Marking of Imported Goods and Containers.* — (A) Marking of Goods. — Except as hereinafter provided, all goods of foreign origin imported into the Philippines or their containers, as provided in subsection (B) hereof shall be conspicuously marked in any official language of the Philippines as legibly, indelibly and permanently as the nature of the goods or container will permit and in such manner as to indicate to an ultimate purchaser in the Philippines the name of the country of origin of the goods. Pursuant thereto, the Commissioner shall, with the approval of the Secretary of Finance:

(1) Determine the character of words and phrases or abbreviation thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling or by any other reasonable method, and in a conspicuous place on the goods or container where the marking shall appear;

(2) Require the addition of other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the goods or as to the origin of any other goods with which such imported goods is usually combined subsequent to importation but before delivery to an ultimate purchaser; and

(3) Authorize the exception of any goods from the requirements of marking if:

- (i) Such goods are incapable of being marked;
- (ii) Such goods cannot be marked prior to shipment to the Philippines without injury;

(iii) Such goods cannot be marked prior to shipment to the Philippines, except at an expense economically prohibitive of their importation;

(iv) The marking of a container of such goods will reasonably indicate the origin of such goods;

(v) Such goods are crude substances;

(vi) Such goods are imported for use by the importer and not intended for sale in their imported or any other form;

(vii) Such goods are to be processed in the Philippines by the importer or for the importer's account other than for the purpose of concealing the origin of such goods and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

(viii) An ultimate purchaser, by reason of the character of such goods or by reason of the circumstances of their importation, must necessarily know the country of origin of such goods even though they are not marked to indicate their origin;

(ix) Such goods were produced more than twenty (20) years prior to their importation into the Philippines; or

(x) Such goods cannot be marked after importation except at an expense which is economically prohibitive, and the failure to mark the goods before importation was not due to any purpose of the importer, producer, seller or shipper to avoid compliance with this section.

(B) Marking of Containers. - Whenever goods are exempt under paragraph (3) of subsection (A) of this section from the requirements of marking, the immediate container, if any, of such goods, or such other container or containers of such goods, shall be marked in such manner as to indicate to an ultimate purchaser in the Philippines the name of the country of origin of such goods in any official language of the Philippines, subject to

all provisions of this section, including the same exceptions as are applicable to goods under paragraph (3) of subsection (A).

(C) Fine for Failure to Mark. - If at the time of importation any good or its container, as provided in subsection (B) hereof, is not marked in accordance with the requirements of this section, there shall be levied, collected, and paid upon such good a marking duty of five percent (5%) of dutiable value, which shall be deemed to have accrued at the time of importation.

(D) Release Withheld Until Marked. - No imported goods held in customs custody for inspection, examination, or assessment shall be released until such goods or their containers shall have been marked in accordance with the requirements of this section and until the amount of duty estimated to be payable under subsection (C) of this section shall have been deposited.

(E) The failure or refusal of the owner or importer to mark the goods as herein required within a period of thirty (30) days after due notice shall constitute as an act of abandonment of said goods and their disposition shall be governed by the provisions of this Act relative to abandonment of imported goods.

SEC. 711. *Dumping Duty.* -

The provisions of Republic Act No. 8752, otherwise known as the "Anti-Dumping Act of 1999", are hereby adopted.

SEC. 712. *Safeguard Duty.* -

The provisions of Republic Act No. 8800, otherwise known as the "Safeguard Measures Act", are hereby adopted.

SEC. 713. *Countervailing Duty.* -

The provisions of Republic Act No. 8751, otherwise known as "An Act Strengthening the Mechanisms for the Imposition of Countervailing Duties on Imported Subsidized Products, Commodities or Articles of Commerce in Order to Protect Domestic Industries from Unfair Trade Competition, Amending for the

Purpose Section 302, Part 2, Title II, Book I of Presidential Decree No. 1464", otherwise known as the "Tariff and Customs Code of the Philippines, as Amended", are hereby adopted.

SEC. 714. *Discrimination by Foreign Countries.* — Without prejudice to the Philippine commitment in any ratified international agreements or treaty, the following recourse shall be applicable in case of discrimination by foreign countries:

(a) When the President finds that the public interest will be served thereby, the President shall, by proclamation, specify and declare new or additional duties in an amount not exceeding one hundred percent (100%) *ad valorem* upon goods wholly or in part the growth or product of, or imported in a vessel of any foreign country whenever the President shall find as a fact that such country:

(1) Imposes, directly or indirectly, upon the disposition or transportation in transit or through reexportation from such country of any goods wholly or in part the growth or product of the Philippines, any unreasonable charge, exaction, regulation or limitation which is not equally enforced upon the like goods of every foreign country; or

(2) Discriminates in fact against the commerce of the Philippines, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction or prohibition, in such manner as to place the commerce of the Philippines at a disadvantage compared with the commerce of any foreign country.

(b) If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the Philippines, as aforesaid, but has, after the issuance of a proclamation as authorized in subsection (a) of this section, maintained or increased its said discrimination against the commerce of the Philippines, the President is hereby authorized, if deemed consistent with the interests of the Philippines and of public interest, to issue a further proclamation

directing that such product of said country or such goods imported in their vessels be excluded from importation into the Philippines.

(c) Any proclamation issued by the President under this section shall, if the President deems it consistent with the interest of the Philippines, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof: *Provided*, That the President may, whenever the public interest requires, suspend, revoke, supplement or amend any such proclamation.

(d) All goods imported contrary to the provisions of this section shall be forfeited to the government of the Philippines and shall be liable to be seized, prosecuted and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission or forfeiture to the government by the tariff and customs laws. Whenever the provision of this section shall be applicable to importations into the Philippines of goods wholly or in part the growth or product of any foreign country, it shall be applicable thereto, whether such goods are imported directly or indirectly.

(e) It shall be the duty of the Commission to ascertain and at all times be informed whether any of the discriminations against the commerce of the Philippines enumerated in subsections (a) and (b) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the Commission to bring the matter to the attention of the President, and to recommend measures to address such discriminatory acts.

(f) The Secretary of Finance shall make such rules and regulations as are necessary for the execution of a proclamation that the President may issue in accordance with the provisions of this section.

TITLE VIII

TAX AND DUTY DEFERMENT, PREFERENCE AND EXEMPTION

CHAPTER 1

CONDITIONALLY TAX AND/OR DUTY-EXEMPT IMPORTATION

SEC. 800. *Conditionally Tax and/or Duty-Exempt Importation.* - The following goods shall be exempt from the payment of import duties upon compliance with the formalities prescribed in the regulations which shall be promulgated by the Commissioner with the approval of the Secretary of Finance: *Provided*, That goods sold, bartered, hired or used for purposes other than what they were intended for and without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the goods had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs laws: *Provided, however*, That a sale pursuant to a judicial order or in liquidation of the estate of a deceased person shall not be subject to the preceding proviso, without prejudice to the payment of duties, taxes and other charges: *Provided, further*, That the President may, upon the recommendation of the Secretary of Finance, suspend, disallow or completely withdraw, in whole or in part, any conditionally free importation under this section:

(a) Aquatic products such as fishes, crustaceans, mollusks, marine animals, seaweeds, fish oil, roe, caught or gathered by fishing vessels of Philippine registry: *Provided*, That they are imported in such vessels or in crafts attached thereto: *Provided, however*, That they have not been landed in any foreign territory or, if so landed, that they have been landed solely for transshipment without having been advanced in condition;

(b) Equipment for use in the salvage of vessels or aircrafts, not available locally, upon identification and the giving of a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of corresponding duties,

taxes and other charges within six (6) months from the date of acceptance of the goods declaration: *Provided*, That the Bureau may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding six (6) months from the expiration of the original period;

(c) Cost of repairs, excluding the value of the goods used, made in foreign countries upon vessels or aircraft documented, registered or licensed in the Philippines, upon proof satisfactory to the Bureau: (1) that adequate facilities for such repairs are not afforded in the Philippines; or (2) that such vessels or aircrafts, while in the regular course of their voyage or flight, were compelled by stress of weather or other casualty to put into a foreign port to make such repairs in order to secure the safety, seaworthiness, or airworthiness of the vessels or aircrafts to enable them to reach their port of destination;

(d) Goods brought into the Philippines for repair, processing or reconditioning to be reexported upon completion of the repair, processing or reconditioning: *Provided*, That the Bureau shall require security equal to one hundred percent (100%) of the duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the goods declaration;

(e) Medals, badges, cups, and other small goods bestowed as trophies or prizes, or those received or accepted as honorary distinction;

(f) Personal and household effects belonging to returning residents including household appliances, jewelry, precious stones, and other goods of luxury which were formally declared and listed before departure and identified under oath before the District Collector when exported from the Philippines by such returning residents upon their departure therefrom or during their stay abroad; personal and household effects including wearing apparel, goods of personal adornment, toilet goods, instruments related to one's profession and analogous personal or household effects, excluding luxury items, vehicles, watercrafts, aircrafts and animals purchased in foreign countries by residents of the

Philippines which were necessary, appropriate, and normally used for their comfort and convenience during their stay abroad, accompanying them on their return, or arriving within a reasonable time which, barring unforeseen and fortuitous events, in no case shall exceed sixty (60) days after the owner's return.

For purposes of this section, the phrase "returning residents" shall refer to nationals who have stayed in a foreign country for a period of at least six (6) months. Returning residents shall have tax and duty exemption on personal and household effects: *Provided*, That:

- (1) It shall not be in commercial quantities;
- (2) It is not intended for barter, sale or for hire; and
- (3) Limited to the FCA or FOB value of:

- (i) Three hundred fifty thousand pesos (P350,000.00) for those who have stayed in a foreign country for at least ten (10) years and have not availed of this privilege within ten (10) years prior to returning resident's arrival;

- (ii) Two hundred fifty thousand pesos (P250,000.00) for those who have stayed in a foreign country for a period of at least five (5) but not more than ten (10) years and have not availed of this privilege within five (5) years prior to returning resident's arrival; or

- (iii) One hundred fifty thousand pesos (P150,000.00) for those who have stayed in a foreign country for a period of less than five (5) years and have not availed of this privilege within six (6) months prior to returning resident's arrival.

Any amount in excess of the above-stated threshold shall be subject to the corresponding duties and taxes under this Act.

Every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust the amount herein stated to its present value using the CPI as published by the PSA.

In addition to the privileges granted under the immediately preceding paragraph, returning Overseas Filipino Workers (OFWs) shall have the privilege to bring in, tax and duty-free, home appliances and other durables, limited to one of every kind once in a given calendar year accompanying them on their return, or arriving within a reasonable time which, barring unforeseen and fortuitous events, in no case shall exceed sixty (60) days after every returning OFW's return upon presentation of their original passport at the port of entry: *Provided*, That any amount in excess of FCA value of one hundred fifty thousand pesos (P150,000.00) for personal and household effects or of the number of duty-free appliances as provided for under this section, shall be subject to the corresponding taxes and duties: *Provided, further*, That every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust the amount herein stated to its present value using the CPI as published by the PSA;

(g) Residents of the Philippines, OFWs or other Filipinos while residing abroad or upon their return to the Philippines shall be allowed to bring in or send to their families or relatives in the Philippines balikbayan boxes which shall be exempt from applicable duties and taxes imposed under the NIRC of 1997, as amended: *Provided*, That balikbayan boxes shall contain personal and household effects only and shall neither be in commercial quantities nor intended for barter, sale or for hire and that the FCA value of which shall not exceed one hundred fifty thousand pesos (P150,000.00): *Provided, further*, That every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust the amount herein stated to its present value using the CPI as published by the PSA: *Provided, finally*, That residents of the Philippines, OFWs or other Filipinos can only avail of this privilege up to three (3) times in a calendar year. Any amount in excess of the allowable non-dutiable value shall be subject to the applicable duties and taxes;

(1) For purposes of this Act, OFWs refer to holders of valid passports duly issued by the Department of Foreign Affairs (DFA) and certified by the Department of Labor and Employment (DOLE) or the Philippine Overseas Employment Administration (POEA) for overseas employment purposes. They cover all Filipinos, working in a foreign country under employment contracts,

regardless of their professions, skills or employment status in a foreign country; and (2) Calendar Year refers to the period from January 1 to December 31.

(h) Wearing apparel, goods of personal adornment, toilet goods, portable tools and instruments, theatrical costumes and similar effects accompanying travelers, or tourists, or arriving within a reasonable time before or after their arrival in the Philippines, which are necessary and appropriate for the wear and use of such persons according to the nature of the journey, their comfort and convenience: *Provided*, That this exemption shall not apply to goods intended for other persons or for barter, sale or hire: *Provided, however*, That the Bureau may require either a written commitment or a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within three (3) months from the date of acceptance of the goods declaration: *Provided, further*, That the Bureau may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding three (3) months from the expiration of the original period.

Personal and household effects and vehicles belonging to foreign consultants and experts hired by, or rendering service to, the government, and their staff or personnel and families accompanying them or arriving within a reasonable time before or after their arrival in the Philippines, in quantities and of the kind necessary and suitable to the profession, rank or position of the person importing said items, for their own use and not for barter, sale or hire: *Provided*, That the Bureau may require either a written commitment or a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, upon the goods classified under this subsection; conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within three (3) months after the expiration of their term or contract: *Provided, however*, That the Bureau may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding three (3) months from the expiration of the original period;

(i) Professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal and household effects belonging to persons coming to settle in the Philippines or Filipinos or their families and descendants who are now residents or citizens of other countries, such parties hereinafter referred to as overseas Filipinos, in quantities and of the class suitable to the profession, rank or position of the persons importing said items, for their own use and not for barter or sale, accompanying such persons, or arriving within a reasonable time: *Provided*, That the Bureau may, upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and that the goods are brought from their former place of abode, exempt such goods from the payment of duties and taxes: *Provided, further*, That vehicles, vessels, aircrafts, machineries and other similar goods for use in manufacture, shall not fall within this classification and shall therefore be subject to duties, taxes and other charges;

(j) Goods used exclusively for public entertainment, and for display in public exhibitions, or for exhibition or competition for prizes, and devices for projecting pictures and parts and appurtenances thereof, upon identification, examination, and appraisal and the giving of a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes and other charges within three (3) months from the date of acceptance of the goods declaration: *Provided*, That the Bureau may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding three (3) months from the expiration of the original period; and technical and scientific films when imported by technical, cultural and scientific institutions, and not to be exhibited for profit: *Provided, further*, That if any of the films is exhibited for profit, the proceeds therefrom shall be subject to confiscation, in addition to the penalty provided under this Act;

(k) Goods brought by foreign film producers directly and exclusively used for making or recording motion picture films on location in the Philippines, upon their identification, examination and appraisal and the giving of a security in an amount equal to

one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes and other charges within three (3) months from the date of acceptance of the goods declaration, unless extended by the District Collector for another three (3) months; photographic and cinematographic films, undeveloped, exposed outside the Philippines by resident Filipino citizens or by producing companies of Philippine registry where the principal actors and artists employed for the production are Filipinos, upon affidavit by the importer and identification that such exposed films are the same films previously exported from the Philippines. As used in this paragraph, the terms "actors" and "artists" include the persons operating the photographic camera or other photographic and sound recording apparatus by which the film is made;

(l) Importations for the official use of foreign embassies, legations and other agencies of foreign governments: *Provided*, That those foreign countries accord like privileges to corresponding agencies of the Philippines. Goods imported for the personal or family use of members and attachés of foreign embassies, legations, consular officers and other representatives of foreign governments: *Provided, however*, That such privilege shall be accorded under special agreements between the Philippines and the countries which they represent: *Provided, further*, That the privilege may be granted only upon specific instructions of the Secretary of Finance pursuant to an official request of the DFA on behalf of members or attachés of foreign embassies, legations, consular officers and other representatives of foreign governments.

(m) Imported goods donated to or, for the account of the Philippine government or any duly registered relief organization, not operated for profit, for free distribution among the needy, upon certification by the DSWD or the Department of Education (DepED), or the Department of Health (DOH), as the case may be;

(n) Containers, holders and other similar receptacles of any material including kraft paper bags for locally manufactured cement for export, including corrugated boxes for bananas, mangoes, pineapples and other fresh fruits for export, except other

containers made of paper, paperboard and textile fabrics, which are of such character as to be readily identifiable and/or reusable for shipment or transportation of goods shall be delivered to the importer thereof upon identification, examination and appraisal and the giving of a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, within six (6) months from the date of acceptance of the goods declaration;

(o) Supplies which are necessary for the reasonable requirements of the vessel or aircraft in its voyage or flight outside the Philippines, including goods transferred from a bonded warehouse in any Customs District to any vessel or aircraft engaged in foreign trade, for use or consumption of the passengers or its crew on board such vessel or aircraft as sea or air stores; or goods purchased abroad for sale on board a vessel or aircraft as saloon stores or air store supplies: *Provided*, That any surplus or excess of such vessel or aircraft supplies arriving from foreign ports or airports shall be dutiable;

(p) Goods and salvage from vessels recovered after a period of two (2) years from the date of filing the marine protest or the time when the vessel was wrecked or abandoned, or parts of a foreign vessel or its equipment, wrecked or abandoned in Philippine waters or elsewhere: *Provided*, That goods and salvage recovered within the said period of two (2) years shall be dutiable;

(q) Coffins or urns containing human remains, bones or ashes, used personal and household effects (not merchandise) of the deceased person, except vehicles, the FCA value of which does not exceed one hundred fifty thousand pesos (P150,000.00), upon identification as such: *Provided*, That every three (3) years after the effectivity of this Act, the value herein stated shall be adjusted to its present value using the CPI as published by the PSA;

(r) Samples of the kind, in such quantity and of such dimension or construction as to render them unsaleable or of no commercial value; models not adapted for practical use; and samples of medicines, properly marked "sample-sale punishable by law", for the purpose of introducing new goods in the Philippine market and imported only once in a quantity sufficient for such

purpose by a person duly registered and identified to be engaged in that trade: *Provided*, That importations under this subsection shall be previously authorized by the Secretary of Finance: *Provided, however*, That importation of sample medicines shall have been previously authorized by the Secretary of Health, and that such samples are new medicines not available in the Philippines: *Provided, further*, That samples not previously authorized or properly marked in accordance with this section shall be levied the corresponding tariff duty.

Commercial samples, except those that are not readily and easily identifiable as in the case of precious and semi-precious stones, cut or uncut, and jewelry set with precious or semi-precious stones, the value of any single importation of which does not exceed FCA value of fifty thousand pesos (P50,000.00) upon the giving of a security in an amount equal to the ascertained duties, taxes and other charges thereon, conditioned for the exportation of said samples within three (3) months from the date of the acceptance of the goods declaration or in default thereof, the payment of the corresponding duties, taxes and other charges: *Provided*, That if the FCA value of any single consignment of such commercial samples exceeds fifty thousand pesos (P50,000.00), the importer thereof may select any portion of the same not exceeding the FCA value of fifty thousand pesos (P50,000.00) for entry under the provision of this subsection, and the excess of the consignment may be entered in bond, or for consumption, as the importer may elect: *Provided, further*, That every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust the amount herein stated to its present value using the CPI as published by the PSA.

(s) Animals, except race horses, and plants for scientific, experimental propagation or breeding, and for other botanical, zoological and national defense purposes: *Provided*, That no live trees, shoots, plants, moss and bulbs, tubers and seeds for propagation purposes may be imported under this section, except by order of the government or other duly authorized institutions: *Provided, however*, That the free entry of animals for breeding purposes shall be restricted to animals of recognized breed, duly registered in the record or registry established for that breed, and certified as such by the Bureau of Animal Industry (BAI):

Provided, further, That the certification of such record, and pedigree of such animal duly authenticated by the proper custodian of such record or registry, shall be submitted to the District Collector, together with the affidavit of the owner or importer that such animal is the animal described in said certificate of record and pedigree: *Provided, finally*, That the animals and plants are certified by the NEDA as necessary for economic development;

(t) Economic, technical, vocational, scientific, philosophical, historical and cultural books or publications, and religious books like Bibles, missals, prayer books, the Koran, Ahadith and other religious books of similar nature and extracts therefrom, hymnal and hymns for religious uses: *Provided*, That those which may have already been imported but are yet to be released by the Bureau at the effectivity of this Act may still enjoy the privilege herein provided upon certification by the DepED that such imported books and/or publications are for economic, technical, vocational, scientific, philosophical, historical or cultural purposes or that the same are educational, scientific or cultural materials covered by the International Agreement on Importation of Educational Scientific and Cultural Materials (IAESCM) signed by the President of the Philippines on August 2, 1952, or other agreements binding upon the Philippines. Educational, scientific and cultural materials covered by international agreements or commitments binding upon the Philippine government so certified by the DepED.

(u) Philippine goods previously exported from the Philippines and returned without having been advanced in value or improved in condition by any process of manufacturing or other means, and upon which no drawback or bounty has been allowed, including instruments and implements, tools of trade, machinery and equipment, used abroad by Filipino citizens in the pursuit of their business, occupation or profession; and foreign goods previously imported when returned after having been exported and loaned for use temporarily abroad solely for exhibition, testing and experimentation, for scientific or educational purposes; and foreign containers previously imported which have been used in packing exported Philippine goods and returned empty if imported by or for the account of the person or institution who exported

them from the Philippines and not for sale, barter or hire subject to identification: *Provided*, That Philippine goods falling under this subsection upon which drawback or bounty have been allowed shall, upon reimportation thereof, be subject to a duty under this subsection equal to the amount of such drawback or bounty;

(v) Aircraft, equipment and machinery, spare parts, commissary and catering supplies, aviation gas, fuel and oil, whether crude or refined except when directly or indirectly used for domestic operations, and such other goods or supplies imported by and for the use of scheduled airlines operating under congressional franchise: *Provided*, That such goods or supplies are not locally available in reasonable quantity, quality and price and are necessary or incidental to the proper operation of the scheduled airline importing the same;

(w) Machineries, equipment, tools for production, plans to convert mineral ores into saleable form, spare parts, supplies, materials, accessories, explosives, chemicals, and transportation and communications facilities imported by and for the use of new mines and old mines which resume operations, when certified to as such by the Secretary of the Department of Environment and Natural Resources (DENR), upon the recommendation of the Director of Mines and Geosciences Bureau, for a period ending five (5) years from the first date of actual commercial production of saleable mineral products: *Provided*, That such goods are not locally available in reasonable quantity, quality and price and are necessary or incidental in the proper operation of the mine; and aircrafts imported by agro-industrial companies to be used by them in their agriculture and industrial operations or activities, spare parts and accessories thereof, when certified to as such by the Secretary of the Department of Agriculture (DA) or the Secretary of the Department of Trade and Industry (DTI), as the case may be;

(x) Spare parts of vessels or aircraft of foreign registry engaged in foreign trade when brought into the Philippines exclusively as replacements or for the emergency repair thereof, upon proof satisfactory to the District Collector that such spare parts shall be utilized to secure the safety, seaworthiness or

airworthiness of the vessel or aircraft, to enable it to continue its voyage or flight;

(y) Goods exported from the Philippines for repair, processing or reconditioning without having been substantially advanced in value, and subsequently reimported in its original form and in the same state: *Provided*, That in case the reimported goods advanced in value, whether or not in their original state, the value added shall be subject to the applicable duty rate of the tariff heading of the reimported goods; and

(z) Trailer chassis when imported by shipping companies for their exclusive use in handling containerized cargo, upon posting a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges due thereon, to cover a period of one (1) year from the date of acceptance of the entry, which period, for meritorious reasons, may be extended by the Commissioner from year to year, subject to the following conditions:

(1) That they shall be properly identified and registered with the Land Transportation Office (LTO);

(2) That they shall be subject to customs supervision fee to be fixed by the District Collector and subject to the approval of the Commissioner;

(3) That they shall be deposited in the customs territory when not in use; and

(4) That upon the expiration of the period prescribed above, duties and taxes shall be paid unless otherwise reexported.

(aa) Any officer or employee of the DEA, including any attaché, civil or military or member of the staff assigned to a Philippine diplomatic mission abroad by the Department or any similar officer or employee of other departments assigned to any Philippine consular office abroad, or any AFP military personnel accorded assimilated diplomatic rank or on duty abroad who is returning from a regular assignment abroad, for reassignment

to the home office, or who dies, resigns, or is retired from the service, after the approval of this Act, shall be exempt from the payment of all duties and taxes on personal and household effects, including one (1) motor car which must have been ordered or purchased prior to the receipt by the mission or consulate of the order of recall, and which must be registered in the name of the officer or employee: *Provided*, That this exemption shall apply only to the value of the motor car and to the aggregate assessed value of the personal and household effects, the latter not to exceed thirty percent (30%) of the total amount received by the officer or employee in salary and allowances during the latest assignment abroad, but not to exceed four (4) years: *Provided, however*, That this exemption shall not be availed of more than once every four (4) years: *Provided, further*, That the officer or employee concerned must have served abroad for not less than two (2) years.

The provisions of general and special laws, to the contrary notwithstanding, including those granting franchises, there shall be no exemption whatsoever from the payment of duties except as provided for in this Act; those granted to government agencies, instrumentalities or government-owned or -controlled corporations (GOCCs) with existing contracts, commitments, agreements, or obligations with foreign countries requiring such exemption; those granted to international institutions, associations or organizations entitled to exemption pursuant to agreements or special laws; and those that may be granted by the President upon prior recommendation of the NEDA in the interest of national economic development.

CHAPTER 2

CUSTOMS WAREHOUSES

SEC. 801. *Establishment and Supervision of Customs Bonded Warehouses.* – When the business of the port requires such facilities, the District Collector, subject to the approval of the Commissioner, shall designate and establish warehouses for use as public and private bonded warehouses, yards, or for other special purposes. All such warehouses and premises shall be subject to the supervision of the District Collector who shall impose such conditions as may be deemed necessary for the

protection of the revenue, and of the goods stored therein. In the exercise of the District Collector's supervisory functions herein and in the Bureau's implementation of this chapter, existing contracts of private operators with appropriate government agency or regulator, such as, but not limited to, the Philippine Ports Authority (PPA), Subic Bay Metropolitan Authority (SBMA) and Phividec Industrial Authority (PIA) and their respective authorities and powers already granted by law pertinent to such contracts, shall not be impaired or adversely affected.

Goods manufactured in whole or in part of imported materials, and intended for exportation, may be made and manufactured in a bonded manufacturing warehouse subject to the following conditions:

- (1) The manufacturer shall file sufficient security for the faithful observance of all laws, rules and regulations applicable thereto;
- (2) The application for the establishment of bonded warehouses must be made in writing and filed with the customs officer, describing the premises, the location, and capacity of the same, and the purpose for which the building is to be used, pursuant to Section 804 of this Act;
- (3) From the receipt of the application, the customs officer shall examine the premises, evaluate its location, construction, and means provided for the safekeeping of the goods;
- (4) The customs officer may authorize the establishment of the customs bonded warehouse, and accept a bond for its operation and maintenance if the applicant was compliant with the prescribed requirements; and
- (5) The operator of the bonded warehouse shall pay an annual supervision fee in an amount to be fixed by the Commissioner.

SEC. 802. *Types of Customs Bonded Warehouses (CBWs).*

– Customs bonded warehouses may be classified as either manufacturing or nonmanufacturing.

Manufacturing customs bonded warehouse may be of the following types: (a) miscellaneous customs bonded warehouse; (b) customs common bonded warehouse; or (c) industry-specific bonded warehouse.

Nonmanufacturing customs bonded warehouse include: (a) public bonded warehouse; (b) private bonded warehouse; or (c) other customs facilities.

SEC. 803. *Types of Customs Facilities and Warehouses (CFWs).* — Customs facilities and warehouses shall include:

- (a) Container yard;
- (b) Container freight station;
- (c) Seaport warehouses; and
- (d) Airport warehouses.

Subject to consultation with the NEDA and the DTL, and based on prevailing economic circumstances, the Secretary of Finance may, upon the recommendation of the Commissioner, create or dissolve certain types of warehouses.

SEC. 804. *Application for Operation of a Customs Warehouse.* — Application for the establishment of CBW and CFW shall be filed with the District Collector where the CBW or CFW is located, describing the premises, location, capacity and purpose thereof.

Upon receipt of such application, the District Collector shall examine the premises of such proposed warehouse, particularly its location, construction and storage facilities. The District Collector, with the approval of the Commissioner, may authorize the establishment of customs warehouses, and accept the required security for its operation and maintenance. The operator of such CBW and CFW shall pay an annual supervision fee, as determined by the Commissioner.

SEC. 805. *Responsibility of Operators.* — The operator of a CBW or CFW shall comply with the customs requirements on establishment, security, suitability and management, including stock-keeping and accounting of the goods, of the CBW or CFW.

Upon lawful demand, the operator of a CBW or CFW shall allow authorized representatives of the Bureau access to the premises at a reasonable time, and to all documents, books and records of accounts pertaining to the operations of the CBW or CFW.

In case of loss of the goods stored in a CBW or CFW due to operator's gross negligence or willful misconduct, the operator shall be liable for the payment of duties and taxes due thereof. The government assumes no legal responsibility over the safekeeping of goods stored in any customs warehouse, yard or premises.

SEC. 806. *Customs Control Over CBWs and CFWs.* — The Bureau shall, for customs purposes, exercise control over, direct and manage CBWs and CFWs pursuant to Section 303 of this Act and likewise over the goods thereat pursuant to Section 301 of this Act: *Provided*, That the Bureau shall not be liable for any loss or damage of the goods stored for safekeeping in any CBW, CFW, yard or premises.

SEC. 807. *Discontinuance of CBW and CFW.* — The use of any CBW and CFW may be discontinued by the District Collector when conditions so warrant, or upon receipt of a written request from the operator thereof: *Provided*, That all the requirements of the laws and regulations have been complied with by said operator. Where dutiable goods are stored in such premises, the same must be removed at the risk and expense of the operator: *Provided, however*, That the premises shall not be relinquished, and its use shall not be discontinued until after a careful examination of the account of the warehouse shall have been made. Discontinuance of the use of any warehouse shall be effective upon approval thereof by the District Collector who shall, within ten (10) days, inform the Commissioner of such action in writing.

Notice of discontinuance made by the operator shall not result in the discharge from any duties, taxes, fees and other charges imposed on dutiable goods in said warehouse.

SEC. 808. Warehousing Security on Goods Stored in CBWs. - For goods declared in the entry for warehousing in CBWs, the District Collector shall require the importer to post a sufficient security equivalent to the computed duties, taxes and other charges, conditioned upon the withdrawal of the goods within the period prescribed by Section 811 of this Act or the payment of duties, taxes and other charges and compliance with all importation requirements.

SEC. 809. Withdrawal of Goods from CBWs. - Imported goods shall be withdrawn from the CBWs when the necessary withdrawal permit has been filed, together with any related document required by any provision of this Act and other regulations.

Goods entered under sufficient security as provided in Section 1507 of this Act may be withdrawn at any time for consumption, transit, or exportation. The withdrawal must be made by the CBW operator or its duly authorized representative.

SEC. 810. Release of Goods from CBWs. - Imported goods shall be released when the goods declaration is electronically lodged, together with any related document required by any provision of this Act and other regulations. All goods entered into the CBWs shall be subject to the filing of a goods declaration within the period specified under Section 407 of this Act.

SEC. 811. Period of Storage in CBWs. - Goods entered for warehousing may remain in a CBW for a maximum period of one (1) year from the time of its arrival thereat. For perishable goods, the storage period shall be three (3) months from the date of arrival, extendible for valid reasons, and upon written request, to another three (3) months. Goods not withdrawn after the expiration of the prescribed period shall be deemed as abandoned, as provided under Section 1129 of this Act.

The Commissioner shall, in consultation with the Secretary of Trade and Industry, establish a reasonable storage period limit beyond one (1) year for bonded goods for manufacturing and intended for export, the processing into finished products of which requires a longer period based on industry standard and practice, subject to the approval of the Secretary of Finance.

SEC. 812. Exemption from Duty of Goods in CBWs. - Goods duly entered for warehousing in CBWs shall be exempt from duty and tax within the allowed period for storage unless withdrawn for consumption, exportation or transit to a free zone or another CBW, in which case, such withdrawal will be subject to the applicable rules and regulations on the liquidation of the warehousing entry.

SEC. 813. Records to be Kept by CBW Operators. - An account shall be kept by the Bureau of all goods delivered to a CBW, and a report shall be made by the CBW operator containing a detailed statement of all imported goods entered and withdrawn from the CBW. The Bureau shall specify the format of the report and may require electronic submission.

All documents, books, and records of accounts concerning the operation of any CBW shall, upon demand, be made available to the District Collector or the representative of the District Collector for examination or audit. For record purposes, all documents shall be kept for three (3) years.

CHAPTER 3

FREE ZONES

SEC. 814. When Goods are Admitted and Withdrawn. - Imported goods shall be admitted into a free zone when the goods declaration, together with required documents, as required by existing laws and regulations, are electronically lodged with the Bureau and other relevant government authorities at the time of admission.

Imported goods shall be withdrawn from the free zone for entry to the customs territory when the goods declaration is electronically lodged, together with required documents at the time of the withdrawal from the free zone.

SEC. 815. *Exemption from Duty and Tax of Goods in Free Zones.* — Unless otherwise provided by law and in accordance with the respective laws, rules and regulations of the free zone authorities, goods admitted into a free zone shall not be subject to duty and tax.

SEC. 816. *Movement of Goods into and from Free Zones.* — The entry of goods into a free zone, whether directly or through the customs territory, shall be covered by the necessary goods declaration for admission or transit. Withdrawal from the free zone into the customs territory shall be covered by the necessary goods declaration for consumption or warehousing.

Transfer of goods from one free zone into another free zone shall likewise be covered by the necessary transit permit.

The implementing rules and regulations on the transit of goods admitted into, exported from, withdrawn into the customs territory, and moved between free zones shall be formulated and issued jointly by the Bureau and the free zone authorities.

SEC. 817. *Coordination With Free Zone Authority.* — To ensure compliance with customs laws and regulations, the Bureau shall coordinate with the governing authority of the free zone.

CHAPTER 4

STORES

SEC. 818. *Stores for Consumption.* — Stores for consumption shall include:

- (a) Goods intended for use by the passengers and the crew on board vessels, aircrafts, or trains, whether or not sold; and

- (b) Goods necessary for the operation and maintenance of vessels, aircrafts, or trains including fuel and lubricants but excluding spare parts and equipment which are either on board upon arrival or are taken on board during the stay in the customs territory of vessels, aircrafts, or trains used, or intended to be used, in international traffic for the transport of persons for remuneration or for the industrial or commercial transport of goods, whether or not for remuneration.

SEC. 819. *Stores to be Taken Away.* — For purposes of this chapter, "stores to be taken away" means goods for sale to the passengers and the crew of vessels, aircrafts, or trains with a view to being landed, which are either on board upon arrival or are taken on board during the stay in the customs territory of vessels, aircrafts, or trains used, or intended to be used, in international traffic for the transport of persons for remuneration or for the industrial or commercial transport of goods, whether or not for remuneration.

SEC. 820. *Exemption from Duties and Taxes of Stores.* — Customs treatment of stores should apply uniformly, regardless of the country of registration or ownership of vessels, aircraft, or trains. Stores which are carried in a vessel, aircraft, or train arriving in the customs territory shall be exempted from import duties and taxes provided that they remain on board. Stores for consumption by the passengers and the crew imported as provisions on international express vessels, aircrafts, or trains shall be exempted from import duties and taxes: *Provided, That:*

- (a) Such goods are purchased only in the countries crossed by the international vessels and aircrafts in question; and
- (b) Any duties and taxes chargeable on such goods in the country where they were purchased are paid.

Stores necessary for the operation and maintenance of vessels, aircrafts, or trains which are on board these means of transport shall be exempted from import duties and taxes: *Provided, further, That* they remain on board while these means of transport are in the customs territory. The Bureau shall allow the issue of stores for use on board during the stay of a vessel

in the customs territory in such quantities as the customs authority deems reasonable with due regard to the number of the passengers and the crew and to the length of the stay of the vessel in the customs territory. The Bureau should allow the issue of stores for use on board by the crew while the vessel is undergoing repairs in a dock or shipyard: *Provided, finally*, That the duration of stay in a dock or shipyard is considered to be reasonable.

When an aircraft is to land at one or more airports in the customs territory, the Bureau should allow the issuance of stores for consumption on board both during the stay of the aircraft at such intermediate airports and during its flight between such airports.

The Bureau shall require a carrier to take appropriate measures to prevent any unauthorized use of the stores including sealing of the stores, when necessary. It shall require the removal of stores from the vessel, aircraft, or trains for storage elsewhere during its stay in the customs territory only when the Bureau considers it necessary.

Vessels, aircrafts, or trains which depart for an ultimate foreign destination shall be entitled to take on board, exempted from duties and taxes, the following:

- (1) Stores in such quantities as the Bureau deems reasonable with due regard to the number of the passengers and the crew, to the length of the voyage or flight, and to any quantity of such stores already on board; and
- (2) Stores necessary for the operation and maintenance of a vessel, aircraft, or train, in such quantities as are deemed reasonable for operation and maintenance during the voyage or flight, after due regard of the quantity of such stores already on board.

Replenishment of stores that are exempted from duties and taxes shall be allowed for vessels, aircrafts, or trains which have arrived in the customs territory, and which need to replenish

their stores for the journey to their final destination in the customs territory, subject to the same conditions provided in this Chapter.

SEC. 821. *Goods Declaration for Stores.* - When a declaration concerning stores on board vessels arriving in the customs territory is required by the Bureau, the information required shall be kept to the minimum and as may be necessary for customs control.

The quantities of stores which are supplied to vessels during its stay in the customs territory should be recorded on the required goods declaration concerning stores.

The Bureau shall not require the presentation of a separate declaration of remaining stores on board a vessel, an aircraft or a train. No separate declaration concerning stores should be required upon departure of vessels from the customs territory. When a declaration is required concerning stores taken on board the vessels or aircrafts upon departure from the customs territory, the information required shall be kept to the minimum as may be necessary for customs control.

When a vessel, aircraft, or train arrives in the customs territory, stores on board shall:

- (a) Be cleared for consumption or placed under another customs procedure, subject to compliance with the conditions and formalities applicable in each case; or
- (b) Subject to prior authorization by the Bureau, be transferred respectively to another vessel, aircraft, or train assigned to an international route.

TITLE IX

DUTY DRAWBACK AND REFUND

CHAPTER 1

DUTY DRAWBACK

SEC. 900. *Basis of Duty Drawback.* — (A) On Fuel Used for Propulsion of Vessels. — On all fuel imported into the Philippines used for propulsion of vessels engaged in trade with foreign countries, or in the coastwise trade, a refund or tax credit shall be allowed not exceeding ninety-nine percent (99%) of the duty imposed by law upon such fuel, which shall be paid or credited under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary of Finance.

(B) On Petroleum Oils and Oils Obtained from Bituminous Minerals, Crude, Eventually Used for Generation of Electric Power and for the Manufacture of City Gas. — On petroleum oils and oils obtained from bituminous materials, crude oil imported by nonelectric utilities, sold directly or indirectly, in the same form or after processing, to electric utilities for the generation of electric power and for the manufacture of city gas, a refund or tax credit shall be allowed not exceeding fifty percent (50%) of the duty imposed by law upon such oils, which shall be paid or credited under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary of Finance.

(C) On Goods Made from Imported Materials. — Upon exportation of goods manufactured or produced in the Philippines, including the packing, covering, putting up, marking or labeling thereof either in whole or in part of the imported materials for which duties have been paid, a refund or tax credit shall be allowed for the duties paid on the imported materials so used including the packing, covering, putting up, marking or labeling thereof, subject to the following conditions:

(1) The actual use of the imported materials in the production or manufacture of the goods exported with their

quantity, value, and amount of duties paid thereon, should be established satisfactorily;

(2) The duties refunded or credited shall not exceed one hundred percent (100%) of duties paid on the imported materials used;

(3) There is no determination by the NEDA of the requirement for certification on nonavailability of locally-produced or manufactured competitive substitutes for the imported materials used at the time of importation;

(4) The exportation shall be made within one (1) year after the importation of materials used and claim of refund or tax credit shall be filed within six (6) months from the date of exportation; and

(5) When two or more products result from the use of the same imported materials, an apportionment shall be made on its equitable basis.

SEC. 901. *Payment of Drawbacks.* — Eligible claims for refund or tax credit shall be paid or granted by the Bureau to claimants within sixty (60) days after receipt of properly accomplished claims: *Provided*, That a registered enterprise under Republic Act No. 5186, otherwise known as the "Investment Incentives Act", or Republic Act No. 6135, otherwise known as the "Export Incentives Act of 1970", which has previously enjoyed tax credits based on customs duties paid on imported raw materials and supplies, shall not be entitled to a drawback under this section with respect to the same importation subsequently processed and reexported.

The Secretary of Finance may, upon the recommendation of the Commissioner, promulgate rules and regulations allowing partial payments of drawbacks pursuant to this section.

SEC. 902. *Prescription of Drawback Claim.* — A claim and application for a drawback shall prescribe if it is not filed within one (1) year from the date of importation in case of

Section 900, paragraphs (A) and (B) and within one (1) year from the date of exportation in the case of Section 900, paragraph (C), subject to such rules and regulations as may be issued by the Commissioner, upon approval of the Secretary of Finance.

CHAPTER 2

REFUND AND ABATEMENT

SEC. 903. *Refund of Duties and Taxes.* — Refund shall be granted where it is established that duties and taxes have been overcharged as a result of an error in the assessment or goods declaration.

Where permission is given by the Bureau for goods originally declared for a customs procedure with payment of duties and taxes to be placed under another customs procedure, a refund shall be made of any duties and taxes charged in excess of the amount due under the new procedure, subject to such regulation issued for the purpose.

A refund shall not be granted if the amount of duties and taxes involved is less than five thousand pesos (P5,000.00): *Provided*, That the Secretary of Finance, in consultation with the Commissioner, may adjust the minimum amount specified in this Act, taking into account the CPI as published by the PSA.

SEC. 904. *Abatement of Duties and Taxes.* — When goods have not yet been released for consumption or have been placed under another customs procedure, provided that no other offense or violation has been committed, the declarant shall neither be required to pay the duties and taxes nor be entitled to refund thereof in any of the following cases:

(a) When, at the request of the declarant, the goods are abandoned, or as determined by the Bureau, the goods are destroyed or rendered commercially valueless while under customs control. Any cost herein incurred shall be borne by the declarant;

(b) When goods are destroyed or irrecoverably lost by accident or *force majeure*, the remaining waste or scrap after destruction, if taken into consumption, shall be subject to the duties and taxes that would be applicable on such waste or scrap if imported in same state; and

(c) When there are shortages due to the nature of the goods.

SEC. 905. *Abatement for Damage Incurred During Voyage.* — Except as otherwise provided, no abatement of duties shall be made on account of damage incurred or deterioration suffered during the voyage of importation; and duties will be assessed on the actual quantity imported as determined by the customs officers concerned.

SEC. 906. *Abatement or Refund of Duty on Missing Package.* — When any package appearing on the manifest or bill of lading or airway bill is missing, an abatement or refund of the duty shall be made if it is certified by the importer or consignee, under pain of penalty for falsification or perjury, and upon production of proof satisfactory to the Collector concerned, that the package in question has not been unlawfully imported into the Philippines.

SEC. 907. *Abatement or Refund for Deficiency in Contents of Packages.* — If, upon opening of any package, a deficiency in the quantity of the goods is found to exist based upon the invoice, such deficiency shall be certified, under pain of penalty for falsification or perjury, by the customs officers concerned and upon the production of proof showing that the shortage occurred before the arrival of the goods in the Philippines. Upon sufficient proof thereof, the proper abatement or refund of the duty shall be made.

SEC. 908. *Abatement or Refund of Duties on Goods Lost or Destroyed After Arrival.* — The Bureau may abate or refund the amount of duties accruing or paid on any goods that have been lost due to injury, theft, destruction through fire or through any other causes, upon satisfactory proof of the same, under any of the following circumstances:

- (a) While within the territory of any port of entry, prior to unloading under the Bureau's supervision;
- (b) While remaining in customs custody after unloading;
- (c) While in transit from the port of entry to any port in the Philippines; and
- (d) While released under sufficient security for export except in case of loss by theft.

SEC. 909. Abatement and Refund of Defective Goods.

— Under conditions to be set by the Commissioner, and with the approval of the Secretary of Finance, an abatement and refund shall be granted on imported or exported goods which are found defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions:

- (a) The goods have not been worked, repaired, or used in the country of importation, and are reexported within a reasonable time; and
- (b) The goods have not been worked, repaired, or used in the country to which they were exported, and are reimported within a reasonable time.

Use of the goods shall, however, not hinder the refund if such use was indispensable to discover the defects or other circumstances which caused the reexportation or reimportation of the goods.

As an alternative to reexportation or reimportation, the goods may be expressly abandoned or destroyed or rendered commercially valueless under customs control as the Bureau may decide. In such case, the importer shall not be entitled to an abatement or a refund if it does not defray the costs of such abandonment, destruction, or rendition.

SEC. 910. Abatement of Duty on Dead or Injured Animals.

— Where it is certified, under pain of penalty for falsification or perjury, and upon production of proof satisfactory to the Bureau that an animal subject of importation dies or suffers injury before arrival, or while in customs custody, the duty due thereon shall be abated provided that its carcass on board or in customs custody is removed in the manner required by the Bureau and at the expense of the importer.

SEC. 911. Investigation Required in Case of Abatements and Refunds. — The Customs Officer concerned shall, in all cases of abatement or refund of duties, submit an examination report as to any fact discovered which indicates any discrepancy and cause the corresponding adjustment on the goods declaration.

SEC. 912. Refund Arising from Correction of Errors.

— Manifest clerical errors made on an invoice or entry, errors in return of weight, measure and gauge, when duly certified under penalties of falsification or perjury by the surveyor or examining officer when there are such officers at the port, and errors in the distribution of charges on invoices not involving any question of law and certified under penalties of falsification or perjury by the examining customs officer, may be corrected in the computation of duties, if such errors are discovered before the payments of duties, or if discovered within one (1) year after release from customs custody of imported goods upon written request and notice of error from the importer, or upon statement of error certified by the District Collector.

For the purpose of correcting errors specified in the next preceding paragraph, the Bureau is authorized to make refunds within the statutory time limit.

SEC. 913. Claims for Refund. — All claims and application for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.

If, as a result of the refund of duties, a corresponding refund of internal revenue taxes on the same importation becomes due, the Bureau shall cause the refund of internal revenue taxes in

favor of the importer after issuance of a certification from the Commissioner of Internal Revenue, when applicable.

The importer may file an appeal of a denial of a claim for refund or abatement, whether it is a full or partial denial, with the Commissioner within thirty (30) days from the date of the receipt of the denial. The Commissioner shall render a decision within thirty (30) days from the receipt of all the necessary documents supporting the application. Within thirty (30) days from receipt of the decision of the Commissioner, the case may also be appealed to the CTA.

Notwithstanding the provisions in the preceding paragraphs, the filing of claims for refund of national internal revenue taxes shall be governed by the provisions provided under the NIRC of 1997, as amended.

TITLE X

POST CLEARANCE AUDIT

SEC. 1000. *Audit and Examination of Records.* — Within three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, the Bureau may conduct an audit examination, inspection, verification, and investigation of records pertaining to any goods declaration, which shall include statements, declarations, documents, and electronically generated or machine readable data, for the purpose of ascertaining the correctness of the goods declaration and determining the liability of the importer for duties, taxes and other charges, including any fine or penalty, to ensure compliance with this Act.

SEC. 1001. *Scope of the Audit.* — The audit of importers shall be conducted when firms are selected by a computer-aided risk management system, the parameters of which are to be based on objective and quantifiable data, subject to the approval of the Secretary of Finance upon recommendation of the Commissioner. The criteria for selecting firms to be audited shall include:

- (a) Relative magnitude of customs revenue to be generated from the firm;
- (b) The rates of duties of the firm's imports;
- (c) The compliance track records of the firm; and
- (d) An assessment of the risk to revenue of the firm's import activities.

SEC. 1002. *Access to Records.* — Any authorized officer of the Bureau shall be given by the importer and customs broker full and free access to the premises where the records are kept, to conduct audit examination, inspection, verification, and investigation of those records relevant to such investigation or inquiry.

A copy of any document certified by or on behalf of the importer is admissible in evidence in all courts as if it were the original copy.

A customs officer is not entitled to enter the premises under this section unless, before so doing, the officer produces to the person occupying or apparently in charge of the premises written evidence of the fact of being duly authorized. The person occupying or apparently in charge of the premises entered by an officer shall provide the officer with all reasonable facilities and assistance for the effective exercise of the officer's authority under this section.

Unless otherwise provided herein or in other provisions of law, the Bureau may, in case of disobedience, invoke the aid of the proper regional trial court within whose jurisdiction the matter falls. The court may punish contumacy or refusal as contempt. In addition, the fact that the importer or customs broker denies the authorized customs officer full and free access to importation records during the conduct of a post clearance audit shall create a presumption of inaccuracy in the transaction value declared for their imported goods and constitute grounds for the Bureau to conduct a reassessment of such goods.

In addition, the imposition of the appropriate criminal sanctions provided under this Act and other administrative sanctions may be concurrently invoked against contumacious importers, including the suspension of the delivery or release of their imported goods.

SEC. 1003. Requirement to Keep Records. — (a) All importers are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, all records pertaining to the ordinary course of business and to any activity or information contained in the records required by this title in connection with any such activity.

For purposes of the post clearance audit and Section 1005 of this Act, the term importer shall include the following:

- (1) Importer-of-record or consignee, owner or declarant, or a party who:
 - (i) Imports goods into the Philippines or withdraws such goods into the Philippine customs territory for consumption or warehousing; files a claim for refund or drawback; or transports or stores such goods carried or held under security; or

- (ii) Knowingly causes the importation or transportation or storage of imported goods referred to above, or the filing of refund or drawback claim.

- (2) An agent of any party described in paragraph (1); or

- (3) A person whose activities require the filing of a goods declaration.

A person ordering imported goods from a local importer or supplier in a domestic transaction shall be exempted from the requirements imposed by this section unless:

- (1) The terms and conditions of the importation are controlled by the person placing the order; or
- (2) The circumstances and nature of the relationship between the person placing the order and the importer or supplier are such that the former may be considered as the beneficial or true owner of the imported goods; or
- (3) The person placing the order had prior knowledge that they will be used in the manufacture or production of the imported goods.

- (b) All parties engaged in customs clearance and processing are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of filing of the goods declaration, copies of the abovementioned records covering the transactions handled.

- (c) Locators or persons authorized to bring imported goods into free zones, such as the special economic zones and free ports, are required to keep subject-records of all its activities, including in whole or in part, records on imported goods withdrawn from said zones into the customs territory for a period of three (3) years from the date of filing of the goods declaration.

Failure to keep the records required by this Act shall constitute a waiver of this right to contest the results of the audit based on records kept by the Bureau.

SEC. 1004. Power of the Commissioner to Obtain Information and Issue Summons. — For the effective implementation of the post clearance audit functions of the Bureau, the Commissioner is hereby authorized to:

- (a) Obtain on a regular basis from any person, in addition to the person who is the subject of a post clearance audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the BSP and GOCCs, any information such as costs

and volume of production, receipts or sales and gross income of taxpayers, and the names, addresses, and financial statements of corporations, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures or consortia and registered partnerships, and their members, whose business operations or activities are directly or indirectly involved in the importation or exportation of imported goods or products manufactured from imported component materials;

(b) Summon the person liable for duties and taxes or required to file goods declaration, or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for duties and taxes, or any other person, to appear before the Commissioner or the duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony;

(c) Take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry; or

(d) Obtain information from banks or other financial institutions on commercial documents and records pertaining specifically to payments relevant to import transaction.

The provisions of the foregoing paragraphs notwithstanding, nothing in this section shall be construed as granting the Commissioner the authority to inquire into bank deposits of persons or entities mentioned in this Title.

SEC. 1005. Failure to Pay Correct Duties and Taxes on Imported Goods.— Any person who, after being subjected to post clearance audit and examination as provided in Section 1000 of this Act, is found to have incurred deficiencies in duties and taxes paid for imported goods, shall be penalized according to two (2) degrees of culpability subject to any mitigating, aggravating, or extraordinary factors that are clearly established by available evidence as described hereunder:

(a) *Negligence.*— When a deficiency results from an offender's failure, through an act or acts of omission or commission, to exercise reasonable care and competence in ensuring that a statement made is correct, the offender shall be charged for committing negligence, and, if found guilty shall be penalized with a fine equivalent to one hundred twenty-five percent (125%) of the revenue loss: *Provided*, That subject to Section 108 of this Act, no substantial penalty shall be imposed on an inadvertent error amounting to simple negligence, as defined by rules promulgated by the Secretary of Finance, upon recommendation of the Commissioner;

(b) *Fraud.*— When the material false statement or act in connection with the transaction was committed or omitted knowingly, voluntarily and intentionally, as established by clear and convincing evidence, the offender who is charged for committing fraud and is found guilty thereof, shall be penalized with a fine equivalent to six (6) times of the revenue loss and/or imprisonment of not less than two (2) years, but not more than eight (8) years.

The decision of the Commissioner, upon proper hearing, to impose penalties as prescribed in this section may be appealed in accordance with Section 1104 of this Act.

SEC. 1006. Records to be Kept by the Bureau.— The Bureau shall keep a database of importer and broker profiles which shall include a record of audit results and the following information and papers:

(a) Articles of Incorporation;

(b) The company structure, which shall include, but not limited to, incorporators and board of directors, key officers, and organizational structure;

(c) Key importations;

(d) Privileges enjoyed;

- (e) Penalties; and
- (f) Risk categories.

The Bureau shall furnish the BIR and the DOF a copy of the final audit results within thirty (30) days from the issuance thereof.

TITLE XI

ADMINISTRATIVE AND JUDICIAL PROCEDURES

CHAPTER 1

ADVANCE RULING AND DISPUTE SETTLEMENT

SEC. 1100. *Classification Ruling.* — An importer or exporter may file a written application for an advance ruling on the tariff classification of goods with the Commission. The Commission shall render a ruling within thirty (30) days from receipt of a properly documented application.

When a declared tariff classification of goods, not subject of a pending application for advance ruling, is in dispute, the importer, exporter, or the Bureau shall submit the matter to the Commission for a ruling, without prejudice to the application of Section 1106 of this Act on "protest". *Provided*, That such rulings of the Commission on commodity classification shall be binding upon the Bureau, unless the Secretary of Finance shall rule otherwise.

SEC. 1101. *Valuation Ruling.* — An importer or exporter may file a written application for an advance valuation ruling on the proper application of a specific method on customs valuation of specific goods as prescribed in Title VII, Chapter 1 of this Act.

The application for a valuation ruling shall be filed with the Commissioner who shall issue a ruling within thirty (30) days from submission of the application form and supporting documents as may be required by rules and regulations.

When the valuation method of goods not subject of an application for advance valuation ruling or the declared customs value is in dispute, the matter shall be resolved in accordance with Section 1106 of this Act on "protest".

SEC. 1102. *Ruling on the Rules of Origin.* — An importer or exporter may file a written application for a ruling on whether the goods qualify as originating under the rules of origin of the applicable preferential trade agreement. The application for an advance ruling on origin shall be filed with the Commissioner who shall act on the application within thirty (30) days from receipt of the application and supporting documents as may be required by rules and regulations.

When the declared origin of the goods, not subject of a request for advance ruling on origin, is in dispute, the matter shall be resolved in accordance with Section 1106 of this Act on "protest".

SEC. 1103. *Conditions for Application and Effect of Advance Ruling.* — An application for an advance ruling shall cover only one (1) product or item. The application for advance ruling shall be filed at least ninety (90) days before the importation or exportation of the product or item, as the case may be.

SEC. 1104. *Administrative and Judicial Appeals.* — An aggrieved party may, within thirty (30) days from receipt of an adverse ruling or decision, appeal the same to the CTA without prejudice to the authority of the Secretary of Finance to review decisions adverse to the government in accordance with Sections 1127 and 1128 of this Act, as the case may be.

SEC. 1105. *Implementing Rules and Regulations.* — The Secretary of Finance, upon the recommendation of the Bureau and the Commission, shall promulgate rules and regulations to implement the preceding provisions on advance ruling.

CHAPTER 2

PROTEST

SEC. 1106. *Protest.* — When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.

Subject to the approval of the Secretary of Finance, the Commissioner shall provide such rules and regulations as to the requirement for payment or nonpayment of the disputed amount and in case of nonpayment, the release of the importation under protest upon posting of sufficient security.

SEC. 1107. *Protest Exclusive Remedy in Protestable Case.* — In all cases subject to protest, the interested party who desires to have the action of the District Collector reviewed, shall file a protest as provided in Section 1106 of this Act, otherwise the action of the District Collector shall be final and conclusive.

SEC. 1108. *Form and Scope of Protest.* — A protest shall be filed in accordance with the prescribed rules and regulations promulgated under this section. It shall specify the particular decision or ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

SEC. 1109. *Samples to be Furnished by Protesting Parties.* — If the nature of the goods permit, importers filing protests involving questions of fact must, upon demand, present

to the Commissioner samples of the goods which are the subject matter of the protest. The samples of the goods shall be verified by the customs officer who made the classification against which the protests are filed.

SEC. 1110. *Decision in Protest.* — When a protest is filed in proper form, the Commissioner shall render a decision within thirty (30) days from receipt of the protest. In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary.

CHAPTER 3

ALERT ORDERS

SEC. 1111. *Alert Orders.* — Alert orders are written orders issued by customs officers as authorized by the Commissioner on the basis of derogatory information regarding possible noncompliance with this Act. An alert order will result in the suspension of the processing of the goods declaration and the conduct of physical or nonintrusive inspection of the goods within forty-eight (48) hours from issuance of the order. Within forty-eight (48) hours or, in the case of perishable goods, within twenty-four (24) hours from inspection, the alerting officer shall recommend the continuance of processing of goods in case of a negative finding, or issuance of a warrant of seizure and detention if a discrepancy between the declaration and actual goods is found. The Bureau's information system shall immediately reflect the imposition or lifting of an alert order.

Derogatory information shall indicate the violations and other necessary specifics thereof. For this purpose, the following shall not be considered derogatory information:

- (a) General allegations of undervaluation;
- (b) General allegations of misclassification without providing the appropriate tariff heading and duty of the shipment to be alerted;

(c) General allegations of over-quantity without indicating the source of information supporting the allegation;

(d) General allegations of misdeclaration in the entry without indicating the suspected actual contents thereof; and

(e) General allegations of importations contrary to law without indicating the specific law or rule to be violated.

No alert order shall be issued on account of allegations of undervaluation unless said undervaluation is caused by the submission to customs of forged or spurious invoice or other commercial documents.

An alert order may be issued only after lodgement of the goods declaration and prior to the release of goods from customs custody. Under no circumstances shall the suspension of the processing of goods declaration be allowed except through an alert order issued by an authorized customs officer.

The costs of the physical inspection shall be borne by the Bureau. *Provided*, That such cost shall be reimbursed by the owner prior to the release of the goods if the physical inspection results in the assessment of additional duties or taxes or the issuance of a warrant of seizure.

The Commissioner shall be notified of the recommendation by the alerting officer within twenty-four (24) hours from the issuance of the alert order. Alert orders shall be dated and assigned a unique reference number in series which shall be the basis for reporting to and monitoring by the Commissioner and the Secretary of Finance.

The Bureau shall create a central clearing house for alert orders and shall submit reports quarterly on the status thereof.

SEC. 1112. *Alert Orders on Perishable Goods.* -- When the subject of the alert order are perishable goods, the Bureau shall attach to the recommendation a certificate stating that the goods are perishable.

CHAPTER 4

SEIZURE AND FORFEITURE

SEC. 1113. *Property Subject to Seizure and Forfeiture.* -- Property that shall be subject to seizure and forfeiture include:

(a) Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of goods or in conveying or transporting smuggled goods in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of smuggled goods in commercial quantities shall subject such vehicle, vessel, aircraft, or any other craft to forfeiture: *Provided*, That the vehicle, vessel, aircraft or any other craft is not used as a common carrier which has been chartered or leased for purposes of conveying or transporting persons or cargo;

(b) Any vessel engaging in the coastwise trade which shall have on board goods of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such goods having been properly entered or legally imported;

(c) Any vessel or aircraft into which shall be transferred cargo unloaded contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination;

(d) Any part of the cargo, stores, or supplies of a vessel or aircraft arriving from a foreign port which is unloaded before arrival at the vessel's or aircraft's port of destination and without authority from the customs officer; but such cargo, ship, or aircraft stores and supplies shall not be forfeited if such unloading was due to accident, stress of weather, or other necessity and is subsequently approved by the District Collector;

(e) Goods which are fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard, or container freight station under customs supervision;

(f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;

(g) Unmanifested goods found on any vessel or aircraft if manifest therefor is required;

(h) Sea stores or aircraft stores adjudged by the District Collector to be excessive, when the duties and taxes assessed by the District Collector thereon are not paid or secured forthwith upon assessment of the same;

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package;

(j) Boxes, cases, trunks, envelopes, and other containers of whatever character used as receptacle or as device to conceal goods which are subject to forfeiture under this Act or which are so designed as to conceal the character of such goods;

(k) Any conveyance actually used for the transport of goods subject to forfeiture under this Act, with its equipage or trappings, and any vehicle similarly used, together with its equipment and appurtenances. The mere conveyance of smuggled goods by such transport vehicle shall be sufficient cause for the outright seizure and confiscation of such transport vehicle but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or that the agent in charge thereof at the time, has no knowledge of the unlawful act; and

(l) Goods sought to be imported or exported:

(1) Without going through a customs office, whether the act was consummated, frustrated, or attempted;

(2) Found in the baggage of a person arriving from abroad and undeclared by such person;

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such goods;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or

(5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

SEC. 1114. *Properties not Subject to Forfeiture in the Absence of Prima Facie Evidence.* - The forfeiture of the vehicle, vessel, or aircraft shall not be effected if it is established that the owner thereof or the agent in charge of the means of conveyance used as aforesaid has no knowledge of or participation in the unlawful act: *Provided*, That a *prima facie* presumption shall exist against the vehicle, vessel, or aircraft under any of the following circumstances:

(a) If the conveyance has been used for smuggling before;

(b) If the owner is not in the business for which the conveyance is generally used; and

(c) If the owner is not financially in a position to own such conveyance.

SEC. 1115. *Conditions Affecting Forfeiture of Goods.* - The forfeiture shall be effected only when and while the goods are in the custody or within the jurisdiction of customs officers, or in the possession or custody of or subject to the control of the importer, exporter, original owner, consignee, agent of another

person effecting the importation, entry or exportation in question, or in the possession or custody of or subject to the control of persons who shall receive, conceal, buy, sell, or transport the same, or aid in any of such acts, with knowledge that the goods were imported, or were the subject of an attempt at importation or exportation contrary to law.

SEC. 1116. *Seizure or Release of Goods.* — The District Collector shall issue an order of release or a warrant of seizure within five (5) days, or two (2) days in case of perishable goods, upon the recommendation of the alerting officer or any other customs officer. The District Collector shall immediately make a report of such seizure or release to the Commissioner.

SEC. 1117. *Warrant of Seizure or Order of Release.* — The District Collector shall have the authority to issue a warrant of seizure of the goods upon determination of the existence of probable cause and in case of nonexistence thereof, the issuance of order of release. In case the District Collector issued an order of release, the District Collector shall immediately transmit all the records to the Commissioner who shall automatically review within forty-eight (48) hours, or within twenty-four (24) hours in case of perishable goods. When no decision is made by the Commissioner within the prescribed period, the imported goods shall be deemed released.

The lifting of the alert order shall be issued by the District Collector only upon the affirmation of the decision of the District Collector by the Commissioner, or after the lapse of the period of review by the Commissioner, whichever is earlier.

SEC. 1118. *Sale of Perishable Goods During Forfeiture Proceedings.* — Upon motion of the importer of the perishable goods, the goods may be sold at a public auction during the pendency of the forfeiture proceedings. The proceeds of the auction shall be held in escrow until the final resolution of the proceedings.

SEC. 1119. *Service of Warrant of Seizure.* — The District Collector shall cause the service of warrant of seizure to the owner or importer of the goods or the authorized representative

thereof. The owner or importer shall be given an opportunity to be heard during the forfeiture proceedings.

For the purpose of serving the warrant, the importer, consignee, or person holding the bill of lading or airway bill shall be deemed the "owner" of the goods. For the same purpose, "authorized representative" shall include any agent of the owner and if the owner or the agent is unknown, any person having possession of the goods at the time of the seizure.

Service of warrant to an unknown owner shall be effected by posting the warrant for fifteen (15) days in a public place at the concerned district, and by electronic or printed publication.

SEC. 1120. *Description, Classification and Valuation of Seized Goods.* — The District Collector shall cause the preparation of a list and particular description, classification, and valuation of the goods seized and valuation of identical or similar goods.

SEC. 1121. *Proceedings in Case of Property Belonging to Unknown Parties.* — If, within fifteen (15) days after service of warrant, no owner or agent can be found or appears before the District Collector, the seized goods shall be forfeited *ipso facto* in favor of the government to be disposed of in accordance with this Act.

SEC. 1122. *Seizure of Vessel or Aircraft for Delinquency of Owner or Officer.* — When the owner, agent, master, pilot in command or other responsible officer of any vessel or aircraft becomes liable for any violation of this Act, the vessel or aircraft may be seized and be subjected to forfeiture proceedings for the settlement of any fine or penalty for which such person is liable. In determining whether or not to seize a vessel or aircraft, the Bureau shall take into account the amount of fine or penalty in relation to the commercial impact that ~~may~~ be caused to international trade by the seizure or detention as well as the value of the vessel or aircraft.

SEC. 1123. *Burden of Proof in Forfeiture Proceedings.* — In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden of proof shall be borne by the claimant

SEC. 1124. *Settlement of Pending Seizure Case by Payment of Fine or Redemption of Forfeited Goods.* -- Subject to the approval of the Commissioner, the District Collector may allow the settlement by payment of fine or the redemption of forfeited goods, during the course of the forfeiture proceeding. However, the Commissioner may accept the settlement by redemption of any forfeiture case on appeal. No settlement by payment of fine shall be allowed when there is fraud or when the discrepancy in duties and taxes to be paid between what is determined and what is declared amounts to more than thirty percent (30%).

In case of settlement by payment of fine, the owner, importer, exporter, or consignee or agent shall offer to pay a fine equivalent to thirty percent (30%) of the landed cost of the seized goods. In case of settlement by redemption, the owner, importer, exporter, or consignee or agent shall offer to pay the redeemed value equivalent to one hundred percent (100%) of the landed cost.

Upon payment of the fine or payment of the redeemed value, the goods shall be released and all liabilities which may attach to the goods shall be discharged without prejudice to the filing of administrative or criminal case.

Settlement of any seizure case by payment of the fine or redemption of forfeited goods shall not be allowed when there is fraud, or where the importation is prohibited or the release of the goods is contrary to law.

SEC. 1125. *Decision in Forfeiture Cases.* -- In forfeiture cases, the District Collector shall issue an order for hearing within fifteen (15) days, or five (5) days in case of perishable goods, from issuance of the warrant. The District Collector shall render a decision within thirty (30) days upon termination of the hearing, or within ten (10) days in case of perishable goods. The decision shall include a declaration of forfeiture, the imposition of a fine or such other action as may be proper.

CHAPTER 5

APPEAL IN PROTEST AND FORFEITURE CASES

SEC. 1126. *Appeal to the Commissioner.* -- In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days or five (5) days in case of perishable goods, from receipt of the decision, file a written notice of appeal, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records, or fifteen (15) days in the case of perishable goods: *Provided*, That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed. An appeal filed beyond the period herein prescribed shall be dismissed.

Appeals to protest cases shall be governed by Section 114 of this Act.

The decision of the Commissioner may be served through the recognized modes of service under existing law.

SEC. 1127. *Automatic Review in Forfeiture Cases.* -- The Commissioner shall automatically review any decision by the District Collector adverse to the government. The entire records of the case shall be elevated within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records. When no decision is rendered within the prescribed period or when a decision adverse to the government is rendered by the Commissioner involving goods with FOB or FCA value of ten million pesos (P10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be automatically elevated within five (5) days for review by the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records, shall be final upon the Bureau.

SEC. 1128. *Automatic Review by the Secretary of Finance in Other Cases.* — In cases not involving protest or forfeiture, the Commissioner shall automatically review any decision by the District Collector that is adverse to the government. The records of the case shall be elevated to the Commissioner within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days from receipt of the records, or within ten (10) days in the case of perishable goods. When no decision is rendered within the prescribed period or when any decision rendered by the Commissioner is adverse to the government, the records of the case under review shall be automatically elevated within five (5) days for the review of the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days from receipt of the records, or within ten (10) days in the case of perishable goods, shall be final upon the Bureau.

CHAPTER 6

ABANDONMENT

SEC. 1129. *Abandonment, Kinds and Effects of.* — Imported goods are deemed abandoned under any of the following circumstances:

- (a) When the owner, importer, or consignee of the imported goods expressly signifies in writing to the District Collector the intention to abandon the same; or
- (b) When the owner, importer, consignee, or interested party after due notice, fails to file the goods declaration within the prescribed period in Section 407 of this Act: *Provided*, That the term goods declaration shall include provisional or incomplete goods declaration deemed valid by the Bureau as provided in Section 403 of this Act. For this purpose, it is the duty of the District Collector to post a list of all packages discharged and their consignees, whether electronically or physically in the District Office, or send a notice to the consignee within five (5) days from the date of discharge; or

(c) Having filed such goods declaration, the owner, importer, consignee or interested party after due notice, fails to pay the assessed duties, taxes and other charges thereon, or, if the regulated goods failed to comply with Section 117 of this Act, within fifteen (15) days from the date of final assessment: *Provided*, That if such regulated goods are subject of an alert order and the assessed duties, taxes and other charges thereof are not paid within fifteen (15) days from notification by the Bureau of the resolution of the alert order, the same shall also be deemed abandoned; or

(d) Having paid the assessed duties, taxes and other charges, the owner, importer or consignee or interested party after due notice, fails to claim the goods within thirty (30) days from payment. For this purpose, the arrastre or warehouse operator shall report the unclaimed goods to the District Collector for disposition pursuant to the provisions of this Act; or

(e) When the owner or importer fails to claim goods in customs bonded warehouses within the prescribed period.

The due notice requirement under this section may be provided by the Bureau through electronic notice or personal service: *Provided*, That for non-regular importers, notification shall be by registered mail or personal service. For this purpose, the accreditation of importers, exporters, and other third parties shall include provision for mandatory receipt of electronic notices.

SEC. 1130. *Treatment and Disposition of Abandoned Goods.* — Expressly abandoned goods under paragraph (a) of Section 1129 of this Act shall *ipso facto* be deemed the property of the government and shall be disposed of in accordance with the provisions of this Act.

If the Bureau has not disposed of the abandoned goods, the owner or importer of goods impliedly abandoned may, at any time within thirty (30) days after the lapse of the prescribed period to file the declaration, reclaim the goods provided that all legal requirements have been complied with and the corresponding duties, taxes and other charges, without prejudice to charges and fees due to the port or terminal operator, as well as expenses

incurred have been paid before the release of the goods from customs custody.

When the Bureau sells goods which have been impliedly abandoned, although no offense has been discovered, the proceeds of the sale, after deduction of any duty and tax and all other charges and expenses incurred as provided in Section 1143 of this Act, shall be turned over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period. After the lapse of the specified period, the balance shall be transferred to the forfeiture fund as provided in Section 1151 of this Act.

CHAPTER 7

OTHER ADMINISTRATIVE PROCEEDINGS

SEC. 1131. *Authority of the Commissioner to Make Compromise.* — Subject to the approval of the Secretary of Finance, the Commissioner may compromise any administrative case arising under this Act involving the imposition of fines and surcharges, including those arising from the conduct of a post clearance audit, unless otherwise specified by law.

Cases involving forfeiture proceedings shall however not be subject to any compromise.

CHAPTER 8

CIVIL REMEDIES FOR THE COLLECTION OF DUTIES AND TAXES

SEC. 1132. *Remedies for the Collection of Duties, Taxes, Fines, Surcharges, Interests, and Other Charges.* — The civil remedies for the collection of import duties, taxes, fees, or charges resulting from the conduct of a post clearance audit shall be obtained by:

- (a) Distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in

and rights to personal property, and by levy upon real property and interest in rights to real property; and

(b) Civil or criminal action.

Either or both of these remedies may be pursued at the discretion of the Bureau: *Provided*, That the remedies of distraint and levy shall not be allowed when the amount of duties and taxes involved is not more than ten thousand pesos (P10,000.00).

The Bureau shall advance the amounts needed to defray costs of collection by means of civil or criminal action, including the preservation or transportation of personal property distrained and the advertisement and sale thereof, as well as of real property and improvements thereon.

SEC. 1133. *Constructive Distraint of the Property.* — To safeguard the interest of the government, the Commissioner may place under constructive distraint the property of a delinquent importer who, in the opinion of the Commissioner, is retiring from any business subject to duty and tax, or is intending to leave the Philippines, or to remove the property therefrom, or to hide or conceal the property, or to perform any act tending to obstruct the proceedings for collecting the duty and tax due, or which may be due.

The constructive distraint of personal property shall be effected by requiring the importer or any person in possession or control of such property to sign a receipt covering the property, to obligate to preserve the distrained property on the state and condition at the time of the government's seizure of the same, and not to dispose of the same in any manner whatsoever, without the express authority of the Commissioner.

In case the importer or the person in possession and control of the property sought to be placed under constructive distraint refuses or fails to sign the receipt herein referred to, the customs officer effecting the constructive distraint shall proceed to prepare

a list of such property and, in the presence of two (2) witnesses, leave a copy thereof in the premises where the property distrained is located, after which the said property shall be deemed to have been placed under constructive distraint.

SEC. 1134. Summary Remedies. — (A) **Distraint of Personal Property.** — Upon failure of the person owing any delinquent duty, tax and other charges to pay at the time required, the Commissioner shall seize and distraint the goods, chattels or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons, in sufficient quantity to satisfy the duty, tax or other charge and the expenses of the distraint and the cost of the subsequent sale.

The officer serving the warrant of distraint shall make or cause to be made an account of the goods, chattels, effects, or other personal property distrained, a copy of which, signed by the said officer, shall be left either with the owner or person from whose possession such goods, chattels, or effects or other personal property were taken, or at the dwelling or other place of business of such person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and note of the time and place of sale.

Stocks and other securities shall be distrained by serving a copy of the warrant of distraint upon the importer and upon the president, manager, treasurer, or other responsible officer of the corporation, company or association, which issued the said stocks or securities.

Debts and credits shall be distrained by leaving with the person owing the debts or having in his/her possession or under his/her control such credits, or with his/her agent, a copy of the warrant of distraint. The warrant of distraint shall be sufficient authority to the person owing the debts or having in his possession or under his control any credits belonging to the importer to pay to the Commissioner the amount of such debts of credits.

Bank accounts shall be garnished by serving a warrant of garnishment upon the importer and upon the president, manager,

treasurer, or other responsible officer of the bank. Upon the receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the government.

A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the Commissioner to the Secretary of Finance: *Provided*, That the Commissioner shall have the power to lift such order of distraint subject to the rules and regulations promulgated pursuant to this Act.

(B) **Levy on Real Property.** — After the expiration of the period within which to pay the duty, tax and other charges as prescribed in this section, real property may be levied upon, before, simultaneously, or after the distraint of personal property belonging to the importer. To this end, the Commissioner or the duly authorized representative shall prepare a duly authenticated certificate showing the name of the importer and the amounts of the duty and tax and penalty due. The certificate shall operate with the force of a legal execution throughout the Philippines.

The levy shall be effected by writing upon the certificate a description of the property on which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the register of deeds of the province or city where the property is located and upon the importer, or if the latter is not in the Philippines, upon the agent or the manager of the business from which the liability arose, or if there be none, to the occupant of the property in question.

In case the warrant of levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the importer is not sufficient to satisfy the duty and tax due, the Commissioner or a duly authorized representative shall, within ~~thirty~~ (30) days after execution of the distraint, proceed with the levy on the real property of the importer.

Within ten (10) days after receipt of the warrant, a report on any levy shall be submitted by the levying officer to the Commissioner: *Provided*, That the Commissioner may lift such

warrants of levy issued, subject to the rules and regulations promulgated pursuant to this Act.

CHAPTER 9

JUDICIAL PROCEEDINGS

SEC. 1135. *Supervision and Control over Criminal and Civil Proceedings.* - Civil and criminal actions and proceedings instituted on behalf of the Government under the authority of this Act or other laws enforced by the Bureau shall be brought in the name of the government of the Philippines and shall be prosecuted and handled by the Bureau with the assistance of the Department of Justice (DOJ): *Provided*, That the determination of the existence of probable cause and the subsequent filing of any criminal or civil case with the proper court against violators of this Act shall exclusively belong to the DOJ: *Provided, however*, That no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Act shall be filed in court without the approval of the Commissioner.

SEC. 1136. *Review by the CTA.* - Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.

Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.

SEC. 1137. *Exclusive Jurisdiction of the Bureau.* - Jurisdiction over imported goods and goods for exportation shall be exclusive to the Bureau, or the Secretary of Finance, when under review by the latter, subject to the proceedings described in this title.

Except for the CTA, no court may issue any order or decision until all the remedies for administrative appeal have been exhausted.

SEC. 1138. *Fraud Investigation and Prosecution.* - No criminal case for violation of this title shall be instituted without the approval of the Commissioner pursuant to the provisions of this Act.

The Bureau shall have the power to investigate and institute smuggling cases committed within its jurisdiction: *Provided*, That in case of inquest, the same may be instituted by the apprehending customs officer.

CHAPTER 10

DISPOSITION OF PROPERTY IN CUSTOMS CUSTODY

SEC. 1139. *Goods Subject to Disposition.* - Goods in customs custody that are in the following conditions and status shall be subject to disposition:

- (a) Abandoned goods;
- (b) Goods entered under warehousing entry but not withdrawn, or those whose duties and taxes have not been paid within the period prescribed under Section 811 of this Act;
- (c) Forfeited goods, other than prohibited, restricted and regulated goods; after liability have been established by the proper administrative or judicial proceedings in conformity with the provisions of this Act; and
- (d) Goods subject to a valid lien for customs duties, taxes and other charges collectible by the Bureau, after the expiration of the period allowed for payment thereof.

SEC. 1140. *Place of Disposition of Goods.* - Upon the order of the District Collector, goods may be sold or otherwise disposed

of at the port where the goods are located, unless the Commissioner shall direct its transfer to another port.

SEC. 1141. *Mode of Disposition.* - The goods subject to disposition may be donated to another government agency or declared for official use of the Bureau, after approval of the Secretary of Finance, or sold at a public auction within thirty (30) days after a ten (10)-day notice posted at a public place at the port where the goods are located and published electronically or in a newspaper of general circulation.

For purposes of donating the goods as above described, goods suitable for shelter or consisting of foodstuffs, clothing materials or medicines may be donated to the DSWD.

SEC. 1142. *Disqualification to Participate in Auction Sale.* - No customs officer or employee, their spouses and relatives within the fourth degree of consanguinity or affinity shall be allowed to bid directly or indirectly, in any customs auction.

SEC. 1143. *Disposition of Proceeds.* - The following expenses and obligations shall be paid from the proceeds of the sale in the order provided:

- (a) Customs duties, except in the case of forfeited goods;
- (b) Taxes and other charges due the government;
- (c) Government storage charges;
- (d) Expenses for the appraisal, advertisement, and sale of auctioned goods;
- (e) Arrastre and private storage charges and demurrage charges; and
- (f) Freight, lighterage or general average, on the voyage of importation, of which due notice shall have been given to the District Collector.

The Commissioner is authorized to determine the maximum charges to be recovered by private entities concerned under subsections (e) and (f) of this section.

SEC. 1144. *Disposition of Perishable Goods.* - Perishable goods as defined under this Act when certified as such by the Bureau, may be sold at a public auction within five (5) days, after a three (3)-day notice.

For this purpose, perishable goods shall include goods liable to perish or be wasted, or those that depreciate greatly in value while stored, or which cannot be kept without great disproportionate expense. The Bureau shall proceed to advertise and sell the same at auction upon notice as shall be deemed to be reasonable.

SEC. 1145. *Disposition of Goods Injurious to Public Health.* - Goods in the custody of the Bureau which, in the opinion of the District Collector are injurious to public health, shall be seized. The District Collector shall, if the matter is not disposable under the provisions relating to food and drugs, appoint three (3) members to constitute a Board to examine the goods. The Board shall be composed of one (1) representative from either the DOH or other appropriate government agency or the local government unit (LGU) concerned, and two (2) representatives from the Bureau. If the goods are found to be injurious to public health, the Board shall report this to the District Collector, who shall order its destruction in an appropriate manner or order its reexportation in accordance with this Act.

The District Collector shall immediately coordinate with the health and quarantine officers at the port of entry for the disposition of goods injurious to public health.

SEC. 1146. *Disposition of Prohibited Goods.* - Prohibited goods, as provided in Section 118 of this Act, shall be destroyed, except paragraph (d) thereof which shall be turned over to the BSP. All goods suitable for shelter, foodstuffs, clothing materials or medicines may be disposed in accordance with Section 1141 of this Act.

SEC. 1147. *Disposition of Restricted Goods.* - Restricted goods as described in Section 119 of this Act shall be disposed as follows:

- (a) Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof shall be turned over to the AFP;
- (b) Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes, or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof shall be turned over to the appropriate government body or agency;
- (c) Lottery and sweepstakes tickets, except advertisements thereof, and lists of drawings therein shall be turned over to the appropriate government body or agency;
- (d) Marijuana, opium, poppies, coca leaves, heroin, or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, shall be turned over to the Dangerous Drugs Board;

(e) Opium pipes and parts thereof, of whatever material, shall be turned over to the Dangerous Drugs Board; and

(f) All other restricted goods which are highly dangerous to be kept or handled shall be destroyed in a manner as the District Collector deems appropriate. Otherwise, the restricted goods shall be turned over to the proper government agency for appropriate handling.

SEC. 1148. *Disposition of Regulated Goods.* - Regulated goods shall be disposed of in a manner to be determined by the appropriate regulatory agency. In the event that the regulatory agency allows the disposition of the regulated goods with

commercial value and capable of legitimate use, these shall be disposed of in accordance with Section 1141 of this Act.

SEC. 1149. *Disposition of Unsold Goods for Want of Bidders.* - Goods subject to sale at public auction by the Bureau shall be sold at a price not less than the landed cost of the goods adjusted for normal depreciation.

Goods which remain unsold after at least two (2) public biddings either due to the lack of bidders or for the lack of an acceptable bid, may be donated to another government agency or declared for official use of the Bureau. If the goods are not suitable either for official use or donation, these may be subject to reexport as government property or sold through a negotiated sale. In case of negotiated sale, the same shall be subject to the approval of the Secretary of Finance and executed in the presence of a representative of the COA. For purposes of donating the goods as above described, goods suitable for shelter or consisting of foodstuffs, clothing materials or medicines may be donated to the DSWD.

SEC. 1150. *Disposition of Smuggled Goods.* - Smuggled goods, when forfeited, shall be disposed of as provided in Section 1148 of this Act.

SEC. 1151. *Forfeiture Fund.* - All proceeds from public auction sales after deduction of the charges as provided in Section 1143 of this Act and subject to the claim of the owner or importer of an impliedly abandoned goods as provided in Section 1130 of this Act, shall be deposited in an account to be known as Forfeiture Fund.

The Fund shall be in the name of and shall be managed by the Bureau which is hereby authorized, subject to the usual government accounting rules and regulations, to utilize it for the following purposes:

- (a) To outsource, subject to the rules on government procurement established by law, the management of the inventory, safekeeping, maintenance and sale of goods

enumerated in Section 1139 of this Act to private service providers: *Provided*, That the Bureau shall retain jurisdictional control and supervision over these goods as well as the operations of the service provider so contracted;

- (b) To facilitate customs seizure, abandonment and forfeiture proceedings and the disposition of goods under Section 1139 of this Act, particularly those to be disposed of other than through public sale;
- (c) To enhance customs intelligence and enforcement capability to prevent smuggling; and
- (d) To support the modernization program and other operational efficiency and trade facilitation initiatives of the Bureau.

The DOF and the Department of Budget and Management (DBM) shall, upon the recommendation of the Bureau, issue a joint regulation to implement the provisions of this section.

TITLE XII

THIRD PARTIES

CHAPTER 1

CUSTOMS SERVICE PROVIDERS

SEC. 1200. *Customs Brokers and Other Service Providers.* -- Upon the recommendation of the Commissioner, the Secretary of Finance shall issue the necessary rules and regulations for the registration of customs brokers and the accreditation of other customs service providers to ensure compliance with this Act and the rules and regulations that shall be promulgated to implement it.

CHAPTER 2

CARRIERS, VESSELS, AND AIRCRAFTS

SEC. 1201. *Ports Open to Vessels and Aircrafts Engaged in Foreign Trade.* -- Vessels and aircrafts engaged in foreign trade shall visit designated ports of entry only except as otherwise especially allowed by law: *Provided*, That no existing and valid government contract covering the handling of import and export cargo shall be diminished or impaired. Every vessel or aircraft arriving within a Customs District of the Philippines from a foreign port shall dock at the designated port of entry and shall be subject to the authority of the District Collector of the port while within its jurisdiction.

SEC. 1202. *Control of Customs Officer Over Boarding or Leaving of Incoming Vessel and Over Other Vessel Approaching the Former.* -- Upon the arrival in port of any vessel engaged in foreign trade, it shall be unlawful for any person, except the pilot, consul, quarantine officers, customs officers, or other duly authorized persons, to board or leave the vessel without permission of the customs officer concerned. It shall likewise be unlawful for any tugboat, rowboat, or other craft to go alongside such vessel and for any person so authorized to board the vessel to take any unauthorized person to board the same, or allow loitering near or alongside such vessel. Unauthorized tugboats and other vessels shall keep away from such vessel engaged in foreign trade at a distance of not less than fifty (50) meters.

SEC. 1203. *Documents to be Produced by the Master Upon Entry of Vessel.* -- Upon entry of a vessel engaged in foreign trade, the master thereof shall present the following certified documents to the customs boarding officers:

- (a) The vessel's general declaration;
- (b) The original manifest of all cargoes destined for the port, to be returned with the endorsement of the boarding officers;

(c) Three (3) copies of the original manifest, one of which, upon certification by the boarding officer as to the correctness of the copy, shall be returned to the master;

(d) A copy of the cargo stowage plan;

(e) Two (2) copies of the store list;

(f) One (1) copy of the passengers list;

(g) One (1) copy of the crew list;

(h) The original copy of all through cargo manifest, for deposit with the customs officer who has jurisdiction over the vessel while in port;

(i) The passengers manifest containing the names of all foreigners, in conformity with the requirements of the immigration laws in force in the Philippines;

(j) One (1) copy of the original duplicate of fully accomplished bill of lading;

(k) The shipping goods and register of the vessel of Philippine registry; and

(l) Such other related documents.

SEC. 1204. *Manifest Required of Vessel from Foreign Port.* - Every vessel from a foreign port must have on board a complete manifest of all its cargoes.

All cargoes intended to be landed at a port in the Philippines must be described in separate manifests for each port of call. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity, and description of the packages and the names of the consignees. Every vessel from a foreign port must have on board complete manifests of passengers and baggage, in the prescribed form, setting forth

the destination and all particulars required by immigration laws. Every vessel shall present to the proper customs officers upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry cargo or passengers, the manifest must show that no cargo or passenger is carried from the port of departure to the port of destination in the Philippines.

A true and complete copy of the cargo manifest shall be electronically sent in advance by the shipping company, NVOCC, freight forwarder, cargo consolidator, or their agents within the cut-off period as may be determined by the Bureau before the arrival of the carrying vessel at the port of entry. Upon arrival of the carrying vessel, the shipping company, NVOCC, freight forwarder, cargo consolidator, or their agents shall provide two (2) hard copies of the cargo manifest to the Bureau in case the port of entry is either the Port of Manila (PoM) or the Manila International Container Port (MICP), and one (1) copy only in the case of the other ports of entry.

A cargo manifest shall in no case be changed or altered after entry of vessel, except by means of an amendment, under oath, by the master, consignee or agent thereof, which shall be attached to the original manifest. *Provided*, That after the invoice and/or goods declaration covering an importation have been received and recorded in the office of the appraiser, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any fraudulent intent, the discovery of which would not have been made until after examination of the importation has been completed.

SEC. 1205. *Translation of Manifest.* - The cargo manifest and each copy thereof shall be accompanied by a translation in English, if originally written in another language.

SEC. 1206. *Manifests for the Commission on Audit and District Collector.* - Upon arrival of a vessel from a foreign port, the Bureau shall provide electronic copies of the manifest to the Chairperson of the COA. The master shall immediately present to the District Collector the original copy of the cargo manifest

properly endorsed by the boarding officer, and for inspection, the ship's register, or other documents in lieu thereof, together with the clearance and other papers granted to the vessel at the port of departure for the Philippines.

SEC. 1207. *Production of Philippine Crew.* — The master of a Philippine vessel returning from abroad shall produce the entire crew listed in the vessel's shipping crew manifest. If any member is missing, the master shall produce proof satisfactory to the District Collector that the member has died, or absconded, has been forcibly impressed into another service, or has been discharged. In case of discharge in a foreign country, the master shall produce a certificate from the consul, vice consul, or consular agent of the Philippines there residing, showing that such discharge was effected with the consent of the aforesaid representative of the Philippines.

SEC. 1208. *Record of Arrival and Entry of Vessels and Aircraft.* — A record shall be made and kept open to public inspection in every Customs District of the date of arrival and entry of all vessels and aircraft.

SEC. 1209. *Arrest of Vessel or Aircraft Departing Before Entry Made.* — When a vessel or aircraft arriving within the limits of a Customs District from a foreign port departs or attempts to depart before entry shall have been made, not being thereunto compelled by stress of weather, duress of enemies, or other necessity, the District Collector of the port may cause the arrest and bring back such vessel or aircraft to the most convenient port with the assistance of other concerned agencies.

SEC. 1210. *Discharge of Ballast.* — When not brought to port as goods, ballast of no commercial value may be discharged upon permit granted by the District Collector for the purpose.

SEC. 1211. *Time of Unloading Cargo.* — Unloading of cargo from a vessel or aircraft from a foreign port during official nonworking hours shall be allowed subject to payment of service fees by shipping lines, airlines, or other interested parties at rates prescribed by the Commissioner.

SEC. 1212. *Entrance of Vessel through Necessity.* — When a vessel from a foreign port is compelled, by stress of weather or other necessity to put into any other port than that of its destination, the master within twenty-four (24) hours after its arrival, shall make a protest under oath setting forth the causes or circumstances of such necessity. This protest, if not made before the District Collector, must be produced and lodged with the District Collector.

Within the same time, the master shall make a report to the District Collector if any part of the cargo was unloaded from necessity or lost by casualty before arrival, and produce sufficient proof to the District Collector of such necessity or casualty before the latter who shall give the approval thereto and the unloading shall be deemed to have been lawfully effected.

SEC. 1213. *Unloading of Vessel in Port from Necessity.* — If a situation arises where the unloading of the vessel is required pending sojourn in port, the District Collector shall, upon sufficient proof of the necessity, grant a permit therefore, and the goods shall be unloaded and stored under the supervision of customs officers.

At the request of the master of the vessel or the owner thereof, the District Collector may grant permission to enter the port and pay duties, taxes and other charges on, and dispose of, such part of the cargo as may be perishable in nature or as may be necessary to defray the expenses attending the vessel.

Upon departure, the cargo, or a part thereof, may be reloaded on board the vessel, and the vessel may proceed with the same to its destination, subject only to the charge for storing and safekeeping of the goods and the fees for entrance and clearance. No port charges shall be collected on vessels entering through stress of weather, duress or other urgent necessities.

SEC. 1214. *Entry and Clearance of Vessels of a Foreign Government.* — The entry and clearance of transport or supply ship of a foreign government shall be in accordance with the agreement by and between the Philippines and the foreign government.

SEC. 1215. *Clearance of Vessel for Foreign Port.* — Before a clearance shall be granted to any vessel bound to a foreign port, the master or the agent thereof shall present to the District Collector the following properly authenticated documents:

- (a) A bill of health from the quarantine officer or officer of the public health service in the port;
- (b) Three (3) copies of the manifest of export cargo, one of which, upon certification by the customs officer as to the correctness of the copy, shall be returned to the master;
- (c) Two (2) copies of the passengers list, showing foreigners and other passengers;
- (d) The register and shipping goods, if the vessel is of Philippine registry;
- (e) Clearance issued by the last port of entry; and

(f) A certificate from the Philippine Postal Corporation to the effect that it received timely notice of the sailing of the vessel: *Provided*, That the District Collector shall not permit any vessel to sail for a foreign port if the master or agent thereof refuses to receive bags of mail delivered to the same by the Philippine Postal Corporation for transport upon reasonable compensation. In case the Postmaster General and the master or agent do not come to an agreement concerning the amount of the compensation to be paid for the carriage of the mail, the matter shall be submitted for decision to a Board of Referees to be composed of three (3) members appointed, respectively, by the Philippine Postal Corporation, the agency of the company to which the vessel concerned belongs, and the Bureau, who shall fix a reasonable rate of compensation.

SEC. 1216. *Detention of Warlike Vessel Containing Arms and Munitions.* — District Collectors shall report to the proper authorities or detain any vessel of commercial registry manifestly built for warlike purposes and about to depart from the Philippines with a cargo consisting principally of arms and munitions of war,

when the number of men shipped on board or other circumstances render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign principality or state, or of any colony, district, or people with whom the Philippines is at peace, until the decision of the President of the Philippines is rendered thereon, or until the owner or owners shall give a security, in double the value of the vessel and cargo, that it will not be so employed, if in the discretion of the District Collector such security will prevent the violation of the provisions of this section.

SEC. 1217. *Oath of Master of Departing Vessel.* — The master of a departing vessel shall state under oath that:

- (a) All cargoes conveyed on the vessel, destined for the Philippines, have been duly discharged or accounted for;
- (b) A true copy of the outgoing cargo manifest has been furnished to the Bureau;
- (c) No letters or packets, not enclosed in properly stamped envelope sufficient to cover postage, have been received or will be conveyed, except those relating to the vessel; and that all mails placed on board the vessel before its last clearance from the Philippines have been delivered at the proper foreign port; and
- (d) If clearing without passenger, the vessel will not carry upon the instant voyage, from the Philippine port; any passenger of any class, or other person not entered upon the ship's declaration.

SEC. 1218. *Extension of Time for Clearance.* — At the time of clearance, the master of a departing vessel shall be required to indicate the time of intended departure, and if the vessel should remain in port forty-eight (48) hours after the time indicated, the master shall report to the District Collector for an extension of time of departure, and without such extension the original clearance shall be nullified.

SEC. 1219. *Advance Notice of Aircraft Arrival.* - (A) Nonscheduled Arrivals. - Before an aircraft comes into any area in the Philippines from any place outside thereof, a timely notice of the intended flight shall be furnished to the District Collector or other customs officer-in-charge at or nearest the intended place of first landing, and to the quarantine and immigration officers-in-charge at or nearest such place of landing. If dependable facilities for giving notice are not available before departure, the use of any radio equipment shall be appropriate as long as it will result in the giving of adequate and timely notice of the aircraft's approach, otherwise landing shall be made at a place equipped with navigational facilities. If, upon landing in any area, the government officers have not arrived, the pilot-in-command shall hold the aircraft and any baggage and goods thereon intact and keep the passengers and crew members in a segregated place until the inspecting officers arrive.

(B) Scheduled Arrivals. - Such advance notice will not be required in the case of an airline arriving in accordance with the regular schedule filed with the District Collector for the Customs District in which the place of first landing area is situated, and also with the quarantine and immigration officers-in-charge of such place.

SEC. 1220. *Landing at International Airport of Entry.* - Except in case of emergency or forced landings, aircraft arriving in the Philippines from any foreign port or place shall make the first landing at an international airport of entry, unless permission to land elsewhere other than at an international airport of entry is first obtained from the Commissioner. In such cases, the owner, operator, or person in charge of the aircraft shall pay the expenses incurred in inspecting the aircraft, goods, passengers, and baggage carried thereon, and such aircraft shall be subject to the authority of the District Collector at the airport while within its jurisdiction.

Should an emergency or forced landing be made by an aircraft coming into the Philippines at a place outside the jurisdiction of the latter, the pilot-in-command shall not allow goods, baggage, passenger, or crew member to be removed or to depart from the landing place without permission of a customs officer, unless such removal or departure is necessary for purposes

of safety, communication with customs officers, or preservation of life, health, or property. As soon as practicable, the pilot-in-command, or a member of the crew-in-charge, or the owner of the aircraft, shall communicate with the customs officer at the intended place of first landing or at the nearest international airport or other customs port of entry in the area and make a full report of the circumstances of the flight and of the emergency or forced landing.

SEC. 1221. *Report of Arrival and Entry of Aircraft.* - The pilot-in-command of any aircraft arriving from a foreign port or place shall immediately report its arrival to the District Collector at the airport of entry or to the customs officer detailed to meet the aircraft at the place of first landing. Upon arrival, such aircraft shall be boarded by a quarantine officer, and after *pratique* or health clearance is granted, shall be boarded by a customs officer; subsequently no person shall be permitted to board or leave the aircraft without the permission of the customs officer. The pilot-in-command or any other authorized agent of the owner or operator of the aircraft shall make the necessary entry. No such aircraft shall, without previous permission from the District Collector, depart from the place of first landing or discharge goods, passengers, or baggage.

SEC. 1222. *Documents Required in Making Entry for Aircraft.* - (a) For the purpose of making entry, there shall be presented to the boarding customs officer four (4) copies of a general declaration which shall contain the following data, unless any of such data is otherwise presented on a separate official form:

- (1) Name of owner or operator of aircraft, registration marks and nationality of aircraft, and flight number of identification;
- (2) Points of clearance and entry, and date of arrival;
- (3) Health and customs clearance at the last airport of departure;

(4) Itinerary of aircraft, including information as to airport of origin and departure dates;

(5) Names and nationality of crew members;

(6) Passengers manifest showing places of embarkation and destination;

(7) Cargo manifest showing information as to airway bill number, the number of packages related to each airway bill number, nature of goods, destination, and gross weight, together with a copy of each airway bill securely attached thereto;

(8) Store list; and

(9) Such other documents as may be required by the Bureau.

(b) The general declaration shall be written in English and duly signed by the pilot-in-command or operator of the aircraft, or the authorized agent. The section on health, and customs clearances, however, shall be signed only by the pilot-in-command or when necessary, by a crew member when the general declaration itself has been signed by a non-crew member. If the aircraft does not carry cargoes or passengers, such facts must be shown in the manifest.

(c) A cargo manifest shall in no case be changed or altered after entry of the aircraft, except by means of an amendment by the pilot-in-command or authorized agent thereof, under oath, and attached to the original manifest: *Provided*, That after the invoice and/or goods declaration covering an importation have been received and recorded in the office of the appraiser, no amendment shall be allowed except when it is obvious that a clerical error or any other discrepancy has been committed without any fraudulent intent in the preparation of the manifest, the discovery of which could not have been made until after complete examination of the importation.

SEC. 1223. *Manifests for the Commission on Audit (COA) and District Collector.* - Upon arrival of an aircraft from a foreign port, the Bureau shall provide electronic copies of the manifest to the Chairperson of the COA. The master shall immediately present to the District Collector the original copy of the cargo manifest properly endorsed by the boarding officer, and for inspection, the aircraft's register or other documents in lieu thereof, together with the clearance and other papers granted to the aircraft at the port of departure for the Philippines.

SEC. 1224. *Clearance of Aircraft for Foreign Port.* - (a) Any aircraft bound to a foreign port shall, before departure, be granted clearance by the Commissioner at an airport of entry where such aircraft has been authorized to make its landing; and

(b) Before clearance shall be granted to an aircraft bound to a foreign port, there shall be presented to the District Collector or to the customs officer detailed at the place of departure four (4) copies of a general declaration signed by the pilot-in-command or authorized agent of an aircraft which shall contain the following data:

(1) Name of owner or operator of aircraft, registration marks and nationality of aircraft, and flight number of identification;

(2) Port of clearance, data thereof and destination;

(3) Health and customs clearance;

(4) Itinerary of aircraft, including information as to airport of destination and departure date;

(5) Names and nationality of crew members;

(6) Passengers manifest showing places of destination;

(7) Export cargo manifest showing information as to airway bill number, the number of packages related to each airway bill

number, nature of goods, destination, and gross weight, together with a copy of each airway bill securely attached thereto; and

- (8) Store list showing stores loaded.

SEC. 1225. *Oath of Person-in-Charge of Departing Aircraft.* - The pilot-in-command or authorized agent of such departing aircraft shall also state under oath to the effect that:

(a) All cargoes conveyed on the aircraft destined to the Philippines have been duly discharged and accounted for; and

(b) The aircraft has not received nor will convey any letter or packet not enclosed in properly stamped envelope sufficient to cover postage, except those relating to the cargo of the aircraft, and that there was delivery to the proper foreign port of all mails placed on board said aircraft before clearance from the Philippines.

If an aircraft is cleared to depart without passengers, the aircraft shall not carry any passenger thereon.

A record shall be made and kept open to public inspection in every customs office at an airport of entry of the dates of arrival and entry of all aircraft.

CHAPTER 3

OTHER THIRD PARTIES

SEC. 1226. *Supervision and Regulation of Third Parties.* - Third parties transacting with the Bureau on behalf of importers and consignees shall be treated equally as true importers or consignees.

Third parties transacting with the Bureau shall be liable for acts committed in violation of this Act and related laws.

Upon the recommendation of the Commissioner, the Secretary of Finance shall issue rules and regulations to govern and regulate the conduct of all third parties dealing directly with

the Bureau in relation to the importation, exportation, movement, storage and clearance of goods for and on behalf of another person. The rules and regulations shall provide for specific conditions when third parties may or may not directly transact with the Bureau and shall provide a written notice in case such third parties are, for valid reasons, barred from transacting with the Bureau. Third party is defined under Section 102(uu) of this Act. For purposes of this section, third parties may also refer to logistics providers, importers, exporters, carriers, airlines, shipping lines, shipping agents, forwarders, consolidators, port and terminal operators, and warehouse operators, if such persons or entities transacted with the Bureau.

CHAPTER 4

AUTHORIZED ECONOMIC OPERATORS (AEOs)

SEC. 1227. *Treatment of Authorized Economic Operators (AEOs).* - The Bureau shall promulgate the necessary procedures and requirements for the compliance of Authorized Economic Operators (AEOs). For AEOs who have displayed diligence in complying with the rules and the submission of official customs requirements, and have satisfactorily managed their commercial records, the Bureau shall extend the following incentives:

- (a) Release of the goods upon provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration;
- (b) Grant of clearance of the goods at the declarant's premises or another place authorized by the Bureau; and
- (c) Other special procedures such as:
 - (i) Allowing a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;

(ii) Use of commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other customs requirements; and

(iii) Allowing the lodgement of goods declaration by means of an entry in the records by the authorized person to be supported subsequently by a supplementary goods declaration.

SEC. 1228. *Trade Facility for AEO.* – The Secretary of Finance shall, upon the recommendation of the Commissioner, issue the necessary rules:

(a) To supervise and regulate the conduct and operations of the AEOs, consistent with international best practices, the World Customs Organization (WCO) framework of standards to secure and facilitate global trade, and other international conventions and agreements;

(b) To develop a trade facilitation program for AEOs and other authorized persons consistent with international best practices and international conventions and agreements; and

(c) To recognize existing facilities where the authority or right to operate AEOs has been granted by the relevant government agency or regulator through a contract, where the Bureau shall:

(i) Only require an endorsement by the relevant agency or regulator;

(ii) Issue a certificate of authority as a matter of course; and

(iii) Ensure that the term of the certificate of authority shall be coterminous with the applicable government contract or any extension thereof.

The Bureau shall implement the provisions of this chapter without interfering, or impeding AEO operations as well as existing operations of wharves, container yards, container freight stations, warehouses, examination areas and other facilities located

in customs territory and/or in airports and seaports. The Bureau shall likewise ensure that any subsequent rules, regulations, orders or memoranda issued in relation to AEOs shall be consistent with the appropriate government agency's or regulator's prevailing operating procedures and international best practices.

Existing contracts of private operators with appropriate government agency or regulator, such as, but not limited to, the PPA, SBMA and PIA and their respective authorities and powers already granted by law pertinent to such contract, shall not be impaired or adversely affected with the Bureau's implementing rules and regulations on AEOs.

TITLE XIII

CUSTOMS FEES AND CHARGES

SEC. 1300. *Customs Dues, Fees and Charges.* – For services rendered and documents issued by the Bureau, dues, fees and charges shall be collected as may be provided under existing regulations issued by the Secretary of Finance, upon the recommendation of the Commissioner.

SEC. 1301. *General Provision on the Authority to Increase or Decrease Dues, Fees and Charges.* – The Secretary of Finance may, upon the recommendation of the Commissioner, increase or decrease the dues, fees and charges collectible by the Bureau to protect the interest of the government.

TITLE XIV

OFFENSES AND PENALTIES

CHAPTER 1

CRIMES AND OTHER OFFENSES

SEC. 1400. *Misdeclaration, Misclassification, Undervaluation in Goods Declaration.* – Misdeclaration as to quantity, quality, description, weight, or measurement of the

goods, or misclassification through insufficient or wrong description of the goods or use of wrong tariff heading resulting to a discrepancy in duty and tax to be paid between what is legally determined upon assessment and what is declared, shall be subject to a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%), or when the declared tariff heading is rejected in a formal customs dispute settlement process involving difficult or highly technical question of tariff classification, or when the tariff classification declaration relied on an official government ruling.

There is undervaluation when: (a) the declared value fails to disclose in full the price actually paid or payable or any dutiable adjustment to the price actually paid or payable; or (b) when an incorrect valuation method is used or the valuation rules are not properly observed, resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value. When the undervaluation is established without the need to go through the formal dispute settlement process provided for in this Act, a surcharge shall be imposed equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%), or the declared value is rejected as a result of an official ruling or decision under the customs dispute settlement process involving difficult or highly technical question relating to the application of customs valuation rules.

A discrepancy in duty and tax to be paid between what is legally determined and what is declared amounting to more than thirty percent (30%) shall constitute a *prima facie* evidence of fraud.

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duty and tax due and that the goods shall be subject to seizure regardless of the amount of the discrepancy without prejudice to the application of

finer or penalties provided under Section 1401 of this Act against the importer and other person or persons who willfully participated in the fraudulent act.

SEC. 1401. *Unlawful Importation or Exportation.* - Any person who shall fraudulently import or export or bring into or outside of the Philippines any goods, or assist in so doing, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods after importation, or shall commit technical smuggling as defined in this Act shall be penalized by:

(a) Imprisonment of not less than thirty (30) days and one (1) day but not more than six (6) months, or a fine of not less than twenty-five thousand pesos (P25,000.00) but not more than seventy-five thousand pesos (P75,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, of the goods unlawfully imported does not exceed two hundred fifty thousand pesos (P250,000.00);

(b) Imprisonment of not less than six (6) months and one (1) day but not more than one (1) year, or a fine of not less than seventy-five thousand pesos (P75,000.00) but not more than one hundred fifty thousand pesos (P150,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds two hundred fifty thousand pesos (P250,000.00) but not more than five hundred thousand pesos (P500,000.00);

(c) Imprisonment of not less than one (1) year and one (1) day but not more than three (3) years, or a fine of not less than one hundred fifty thousand pesos (P150,000.00) but not more than three hundred thousand pesos (P300,000.00), ~~or both~~, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00);

(d) Imprisonment of not less than three (3) years and one (1) day but not more than six (6) years, or a fine of not less than three hundred thousand pesos (P300,000.00) but not more than one million five hundred thousand pesos (P1,500,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds one million pesos (P1,000,000.00) but not more than five million pesos (P5,000,000.00);

(e) Imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, or a fine of not less than one million five hundred thousand pesos (P1,500,000.00) but not more than fifteen million pesos (P15,000,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds five million pesos (P5,000,000.00) but not more than fifty million pesos (P50,000,000.00);

(f) Imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years, or a fine of not less than fifteen million pesos (P15,000,000.00) but not more than fifty million pesos (P50,000,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds fifty million pesos (P50,000,000.00) but not more than two hundred million pesos (P200,000,000.00);

(g) If the appraised value of the goods unlawfully imported to be determined in the manner prescribed under this Act, including duties and taxes, exceeds two hundred million pesos (P200,000,000.00) or if the aggregate amount of the appraised value of the goods which are the subject of unlawful importation committed in more than one instance, including duties and taxes, exceeds two hundred million pesos (P200,000,000.00), the same shall be deemed as a heinous crime and shall be punishable with a penalty of *reclusion perpetua* and a fine of not less than fifty million pesos (P50,000,000.00); and

(h) The penalty of *prision mayor* shall be imposed when the crime of serious physical injuries shall have been committed, and the penalty of *reclusion perpetua* shall be imposed when the

crime of homicide shall have been committed by reason or on the occasion of the unlawful importation.

In applying the above scale of penalties, an offender who is a foreigner shall be deported without further proceedings after serving the sentence. If the offender is a public officer or employee, the penalty which is the next higher in degree shall be imposed in addition to the penalty of perpetual disqualification from public office, and disqualification to vote and to participate in any public election. If the offender fails to pay the fine, subsidiary imprisonment shall be served.

When, upon trial for violation of this section, the defendant is shown to have had possession of the goods in question, possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court: *Provided*, That each act of unlawful importation or exportation shall be deemed as a separate offense: *Provided, however*, That payment of the tax due after apprehension shall not constitute a valid defense in any prosecution under this section: *Provided, further*, That outright smuggling shall also be punishable under this section: *Provided, finally*, That the rights and privileges provided in this Act for the importers, consignees, exporters, service providers, third parties and other third parties who committed this offense shall be revoked.

SEC. 1402. *Failure or Refusal of Party to Give Evidence or Submit Documents for Assessment.* — When the owner, importer or consignee of any imported goods, or the agent of either, fails or refuses, upon lawful demand in writing by any customs officer to appear, lawfully depose, or submit to examination or to answer any material question or refuses to produce records, accounts or invoices in possession pertaining to the value, classification or disposition of the goods in question and deemed material in assessing the same, the District Collector shall assess a surcharge of twenty percent (20%) on the dutiable value of the goods which is the subject of the importation.

SEC. 1403. *Other Fraudulent Practices Against Customs Revenue.* — Any person who makes or attempts to make any entry of imported or exported goods by means of any false or

fraudulent statement, document or practice or knowingly and willfully files any false or fraudulent claim for payment of drawback or refund of duties shall, for each act, be punished in accordance with the penalties prescribed in Section 1401 of this Act.

SEC. 1404. *Failure to Declare Baggage.* — Whenever dutiable goods are not declared by any person arriving within the Philippines, such goods shall be seized and the person may obtain release of such goods, if not imported contrary to any law, upon payment of a surcharge equivalent to thirty percent (30%) of the landed cost of such goods, in addition to all duties, taxes and other charges due. Nothing in this section shall preclude the filing of criminal action against the offender.

SEC. 1405. *Vessel, Seacraft, or Aircraft Departing Before Undergoing Customs Formalities.* — Any vessel, seacraft, or aircraft arriving within the limits of a Customs District from a foreign port which departs before undergoing customs formalities, without being compelled to do so by stress of weather, pursuit or duress of enemies, or other necessity, shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1406. *Obstruction to Boarding Officer.* — If the master or pilot-in-command or any member of the complement of any vessel or aircraft arriving at the Philippine port obstructs or hinders any officer from lawfully going on board such vessel or aircraft for the purpose of enforcing this Act, or intentionally causes any officer to be so obstructed or hindered, the vessel or aircraft shall be liable to a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1407. *Unlawful Boarding or Leaving of Vessel or Aircraft.* — If, upon arrival at the Philippine port, any master of a vessel or pilot-in-command of an aircraft engaged in a foreign trade permits any person to board or leave the vessel or aircraft without the permission of the customs officer-in-charge, the owner or operator of such vessel or aircraft shall be liable for a fine of

not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1408. *Unloading of Cargo Before Arrival at Port of Entry.* — If, upon the arrival within the limits of any Customs District of the Philippines of any vessel or aircraft engaged in foreign trade, the master or pilot-in-command thereof permits any part of the cargo to be unloaded before arrival at the port of entry, and without authority from a proper customs officer, the owner, operator, or agent of such vessel or aircraft shall be liable for a fine of not less five hundred thousand pesos (P500,000.00) but not more than two million pesos (P2,000,000.00); *Provided*, That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity; *Provided, however*, That the fine imposed herein shall be without prejudice to the application of fines or penalties provided under Section 1401 of this Act.

SEC. 1409. *Unloading of Cargo at Improper Time or Place After Arrival.* — The owner or operator of any vessel or aircraft from which cargo is discharged upon arrival in the Philippines at a time or place other than that designated by the District Collector, shall be fined not less one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00); *Provided*, That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity.

SEC. 1410. *Failure to Exhibit or Deposit Documents.* — When the master of a vessel or pilot-in-command of an aircraft engaged in foreign trade fails to submit to the District Collector at the time of entry of the vessel or aircraft the register or other documents in lieu thereof, together with the clearance and other documents granted by the customs officers to the vessel or aircraft at the last foreign port of departure, or fails to exhibit any certificate or other documents required to be then exhibited, the owner or operator of such vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1411. *Bringing of Unmanifested Arms, Explosives or War Equipment.* — The owner, operator, or agent of a vessel or aircraft arriving at a port in the Philippines bearing cargo consisting of firearms, gunpowder, cartridges, dynamite or any other explosives, munitions or equipment of war not contained in the manifest of the vessel or aircraft, or which are concealed on board, shall be liable for a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00).

SEC. 1412. *Failure to Supply Advance and Requisite Manifests.* — Failure to transmit the electronic manifest within the required time as may be prescribed by the Bureau, prior to arrival of the carrying vessel or aircraft at the port of entry shall make the owner, operator, or agent of the vessel or aircraft liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

If the transit time from port of origin to port of entry is at least seventy-two (72) hours, the shipping or forwarding agent of the carrier or the vessel who fails to submit the manifest at least twenty-four (24) hours before entry shall likewise be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1413. *Disappearance of Manifested Goods.* — When any package or goods mentioned in the manifest meant to be unloaded at the port of destination is not unloaded upon the arrival of the vessel or aircraft, its agent shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00) unless the disappearance of the package or the goods in question was not due to the negligence of the master of the vessel or pilot-in-command of an aircraft, and is explained to the satisfaction of the District Collector.

The owner, operator, or agent of a vessel or aircraft shall be liable for the payment of the same fine when a package or

goods listed in the manifest does not tally materially in character or otherwise with the description thereof in the manifest.

SEC. 1414. *Discrepancy Between Actual and Declared Weight of Manifested Goods.* — If the gross weight of goods or package described in the manifest or bill of lading exceeds the declared weight by more than ten percent (10%), and such discrepancy was due to the negligence of the master or pilot-in-command, the owner, employee, operator or agent of the importing vessel or aircraft shall be liable for a fine of not more than twenty percent (20%) of the value of the package or goods in respect to which the deficiency exists.

SEC. 1415. *Discrepancy With the Master's or Pilot's-in-Command Report.* — When a vessel or aircraft arriving from a foreign port is compelled by necessity to unload in another port other than the port of entry and permission is granted by the District Collector for the unloading of the vessel or aircraft or the delivery of any part of the cargo and it shall be found that there is discrepancy between the cargo unloaded and the report of the master or the pilot-in-command and such discrepancy is not satisfactorily explained, the owner, operator or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1416. *Failure to Report Fraud.* — A master, pilot-in-command or other officer, owner or agent of any vessel or aircraft trading with or within the Philippines who has knowledge of the commission of fraud that shall result in the loss or diminution of customs revenue but fails to report all information relative thereto to the District Collector shall be penalized with imprisonment of not less than six (6) months and one (1) day but not more than one (1) year and shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not ~~more~~ than three hundred thousand pesos (P300,000.00). If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall suffer additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election. All the benefits

due from service in the government, including the separation and retirement benefits, shall be forfeited.

SEC. 1417. False Statement of Vessel's or Aircraft's Destination. - When the master or pilot-in-command of a vessel or aircraft loaded with goods shall make a false statement as to the next destination of such vessel or aircraft when that information is required by a customs officer, the owner or operator of such vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00). The arrival of a vessel or aircraft at a different port other than the one it had been originally authorized and cleared for without having been impelled to do so by necessity, shall be *prima facie* proof that the original statement of the actual destination of the vessel or aircraft was false.

SEC. 1418. Affixing Seals. - Any person who, without authority, affixes or attaches a customs seal, fastening, or any mark, or fastening purporting to be a customs seal, to any vessel, aircraft, vehicle, warehouse, or package, shall be penalized with imprisonment of not less than six (6) months and one (1) day but not more than one (1) year, and shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00). If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall suffer an additional penalty of perpetual disqualification to hold public office and disqualification from exercising the right to vote and to participate in any election.

SEC. 1419. Breaking of Seal Placed by Customs Officers. - If any seal placed by a customs officer upon any vessel or aircraft or compartment thereof, or upon any box, trunk or other package of goods on board is broken, the owner, operator, or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00) for each broken or destroyed seal.

SEC. 1420. Breaking of Lock or Fastening Placed by Customs Officers. - If any lock or other fastening device placed by a customs officer upon any hatch door, or other means of communication in the hold of a vessel or aircraft, or other part thereof for the security of the same during the night time, is unlawfully opened, broken or removed, or if any of the goods contained in the hold or in the other compartments so secured is clandestinely abstracted and landed, the owner, operator, or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SEC. 1421. Removal, Breakage, and Alteration of Marks. - Any person who, without authority, willfully removes, breaks, injures, defaces or alters any customs seal or other fastening or mark placed upon any vessel, vehicle, on land, sea or air, warehouse or package containing merchandise or baggage in bond or in customs custody, shall be punished with the penalty prescribed in Section 1420 hereof.

SEC. 1422. Unauthorized Withdrawal of Imported Goods from Bonded Warehouse. - Any person who causes the unauthorized withdrawal of imported goods stored from a CBW shall be liable for payment of a surcharge of fifty percent (50%) of duties, taxes, customs fees, and charges, found to be due and unpaid. The amount of surcharge shall be added to the duties, taxes and charges due on the goods withdrawn. If the delinquency lasts for more than one (1) year, the surcharge shall be increased by twenty-five percent (25%) of the unpaid duties and taxes annually: *Provided*, That where the withdrawal is attended with fraud, such as when a fake or altered withdrawal permit is submitted, the warehouse operator shall be held liable under the pertinent provisions of this Act, without prejudice to the suspension or revocation of the warehousing privileges granted by the Bureau pursuant to this Act.

SEC. 1423. Removing or Repacking Goods in Warehouse. - Any person who fraudulently conceals, removes, or repacks merchandise in any warehouse or fraudulently alters, defaces, or obliterates any mark or numbers placed upon packages deposited

in such warehouse, or shall aid or abet any such acts, shall be punished with the penalties prescribed in Section 1418 hereof.

Merchandise so concealed, removed, or repacked, or packages upon which marks, numbers or the values thereof have been so altered, defaced, or obliterated shall be forfeited in favor of the government.

SEC. 1424. Removing Goods from Customs Custody. — Any person who enters any warehouse, or any vehicle loaded with or containing merchandise with intent to unlawfully remove therefrom any merchandise or baggage in such vessel, vehicle or warehouse or otherwise in customs custody or control, or any person who receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle or warehouse, or shall aid or abet such removal, shall suffer the penalties provided in Section 1401 hereof.

SEC. 1425. Failure to Pay Duties, Taxes and Other Charges. — For failure to pay the duties, taxes and other charges of an assessment within fifteen (15) days from the date of final assessment, a surcharge of ten percent (10%) of the total assessed amount or balance thereon shall be added and collected, which surcharge shall be increased to twenty-five percent (25%) if the delinquency lasts for more than one (1) year.

SEC. 1426. Breach of Security. — Upon breach of security required to be filed under this Act, the District Collector, subject to the approval of the Commissioner, may accept in satisfaction thereof a smaller sum than that mentioned in the penalty clause of the security, but in no case less than the amount necessary to indemnify the government for the damage occasioned by such breach.

SEC. 1427. Failure to Keep Importation Records and Full Access to Customs Officers. — Any person who fails to keep all the records of importations or books of accounts, business and computer systems and all customs commercial data in the manner prescribed under this Act, shall be punished with imprisonment

of not less than three (3) years and one (1) day but not more than six (6) years and/or a fine of one million pesos (P1,000,000.00). This penalty shall likewise be imposed against importers and brokers who deny an authorized customs officer full and free access to such records, books of accounts, business and computer systems, and all customs commercial data including payment records, without prejudice to the imposition of the administrative sanctions by the Bureau against contumacious importers, including the authority to hold delivery or release of their imported goods.

SEC. 1428. Concealment or Destruction of Evidence of Fraud. — Any person who willfully conceals or destroys any invoice, book, or document relating to any goods liable to duty after an inspection thereof has been demanded by the District Collector or at any time conceals or destroys any such invoice, book, or document for the purpose of suppressing any evidence of fraud therein contained, shall be penalized with imprisonment of not less than three (3) years and one (1) day but not more than six (6) years and shall be liable for a fine of not less than three hundred thousand pesos (P300,000.00) but not more than one million pesos (P1,000,000.00).

SEC. 1429. Other Offenses. — The owner or operator of a vessel, aircraft or train shall be liable for a fine for the following acts:

(a) For anchoring at any dock, pier, wharf, quay, or bulkhead other than a port of entry, a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00) for overseas vessels;

(b) For dumping of garbage or slops over the sides of the vessel within three (3) miles from the nearest coastline, a fine of not less than one million pesos (P1,000,000.00) but not more than ten million pesos (P10,000,000.00);

(c) For dumping or causing to spread crude oil, kerosene, or gasoline in the bay or at the piers within three (3) miles from the nearest coastline, a fine of not less than one million pesos

(P1,000,000.00) but not more than ten million pesos (P10,000,000.00) for each offense;

(d) For loading gasoline or any other petroleum products at a place other than that designated by the regulations, a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00) for each offense;

(e) For causing the emission and spread of harmful gas, fumes and chemicals, a fine of not less than one million pesos (P1,000,000.00) but not more than ten million pesos (P10,000,000.00) for each offense; and

(f) For transporting hazardous waste, radioactive waste and other toxic substances as provided under the Basel Convention and Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", the penalty shall be forfeiture of the vessel in favor of the government.

The fines imposed herein shall be without prejudice to the application of fines or penalties provided under special laws and regulations.

SEC. 1430. *Violations of this Act and Rules and Regulations in General.* - Any person who violates any other provision of this Act or the rules and regulations issued pursuant thereto, shall be penalized with imprisonment of not less than thirty (30) days and one (1) day but not more than one (1) year, or be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00), or both. If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall be disqualified from holding public office, from exercising the right to vote and to participate in any public election for ten (10) years.

CHAPTER 2

PENALTIES IMPOSED UPON BUREAU EMPLOYEES

SEC. 1431. *Statutory Offenses of Officers and Employees.* - Every officer, agent, or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Act, who shall be found guilty of any delinquency as described below shall be penalized with imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, and perpetual disqualification to hold public office, from exercising the right to vote and to participate in any public election and a fine of not less than five hundred thousand pesos (P500,000.00), but not more than one million pesos (P1,000,000.00):

- (a) Extortion or willful oppression under color of law;
- (b) Knowingly demanding other or greater sums that are authorized by law or receive any fee, compensation, or reward except as by law prescribed, for the performance of any duty;
- (c) Willfully neglecting to give receipts, as required by law, for any sum collected in the performance of duty, or who willfully neglect to perform any of the duties enjoined by law;
- (d) Conspiring or colluding with another or others to defraud the customs revenue or otherwise violate the law;
- (e) Providing an opportunity for any person to defraud the government of customs revenue or failing to do any act with the intent to enable any person to defraud the government of customs revenue;
- (f) Negligently or designedly permitting the violation of the law by any other person;
- (g) Making or signing for any false entry or entries in any book, making or signing any false certificate or return in any

case where the law requires the making by them of such entry certificate or return;

(h) Failing to report knowledge or information to their superior officer about an act or acts of fraud committed in revenue collection as required by law;

(i) Demanding or accepting or attempting, without authority, to collect directly or indirectly as payment or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law;

(j) Unlawfully disclosing confidential information gained during any investigation or audit, or using such information for personal gain or to the detriment of the government, the Bureau, or third parties.

All the benefits due from service in the government, including separation and retirement benefits, of an officer, agent, or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Act found guilty of the foregoing violations shall be forfeited.

SEC. 1432. *Failure to Report Fraud.* - Any employee of the Bureau who has knowledge of any fraud committed against the government pertaining to customs revenue, and who fails to report all information relative thereto to the District Collector, shall be penalized with imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00). The offender shall suffer the additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election. All the benefits of the offender due from service in the government, including separation and retirement benefits, shall be forfeited.

SEC. 1433. *Liability for Other Offenses.* - The fines and penalties imposed in this chapter shall be without prejudice to

the application of fines or penalties provided under Chapter 1 of this title and special laws and regulations.

TITLE XV

MISCELLANEOUS PROVISIONS

SEC. 1500. *Information, Decisions, and Rulings.* - The Bureau shall ensure that all information of general application pertaining to customs, including revisions or amendments thereto, shall be available to the general public.

SEC. 1501. *Period to Issue Ruling.* - Unless otherwise provided in this Act, the issuing authority shall act on the application for ruling within thirty (30) days from receipt of the application and supporting documents as may be required by regulation. Within three (3) days from issuance of a ruling, the issuing authority shall notify the requesting party of such ruling.

SEC. 1502. *Publication and Confidentiality of Certain Information in Ruling.* - The Bureau and the Commission shall regularly publish its rulings in a manner accessible to the public. For this purpose, each application for ruling shall be assigned a title and unique ruling number for easy reference. The publication shall contain information on the goods involved, the body or summary of the ruling, particularly the grounds relied upon to support the ruling, but shall exclude the name of the requesting party and other information which by their very nature are confidential, including those which the requesting party indicated in its application as confidential in nature. Except in the context of judicial proceedings, any disclosure of confidential information under this section shall not be made except upon the written consent of the beneficiary of the advance ruling.

SEC. 1503. *Duty of District Collector to Report Rulings to the Commissioner.* - When any new or unsettled question shall be determined by a District Collector, and if the matter is not otherwise appealed for review in the ordinary course, the

District Collector shall notify the Commissioner of the decision and submit an adequate statement of the facts involved.

SEC. 1504. *Application of Established Ruling or Decision.* — A ruling or decision of the Commissioner which determines the construction or application of any provision of law imposing customs duties and taxes, and which changes any existing established valuation, classification, rules of origin and other customs rules, interpretation or practice shall not take effect until thirty (30) days after public notice shall have been given in the form of a published decision. When the ruling or decision favors the taxpayers, it shall become effective immediately.

SEC. 1505. *Authority of Official to Administer Oaths and Take Testimony.* — The Commissioner, District Collectors and their deputies, and other customs officers especially deputized by the District Collector shall have authority to administer oaths and take testimony in connection with any matter within the jurisdiction of the Bureau and, in connection therewith, may require the production of relevant papers, documents, books and records in accordance with law.

SEC. 1506. *General Security.* — In cases where securities are required to be given under the provisions of this Act and related customs laws, the District Collector, instead of requiring separate special security where transactions of a particular party are numerous, may accept general security extending over such periods of time and covering such transactions of the party in question as may be satisfactory to the District Collector.

SEC. 1507. *Security.* — The Bureau shall prescribe the forms and amount of security required to guarantee the payment of duties and taxes and other obligations provided for in this Act.

Any party required to provide security shall have the option to choose from any form of security prescribed by the Bureau. The Bureau may not require security if satisfied that an obligation to the Bureau will be fulfilled, but shall require and accept a general security from declarants who regularly declare goods at different offices in customs territory under such terms and conditions as may be determined by the Commissioner.

The required amount of security shall be the lowest possible and shall not exceed the amount of impossible duties, taxes and other charges.

When the obligation under which the security was required has been satisfied, the security shall be discharged immediately.

SEC. 1508. *Customs Service Fees.* — Customs personnel may be assigned by a District Collector to render overtime work and other customs services and shall be paid for such services by the Bureau according to service fees fixed by the Commissioner and approved by the Secretary of Finance. The Bureau may charge additional customs service fees when applicable, subject to the rates prescribed under existing rules and regulations.

SEC. 1509. *Testimony in Writing.* — When testimony is taken in any proceeding or matter under the authority of the Bureau, either party may require that the testimony shall be made in writing, and when so taken, the written testimony shall be filed with the Office of the District Collector and to be preserved for use or reference until the final decision has been reached.

SEC. 1510. *District Collector Not Liable in Respect to Ruling in Customs Cases.* — Every District Collector or other officials of the Bureau shall not be in any way personally liable on account of any official ruling or decision as to which the person claiming to be aggrieved has the right to obtain either an administrative or judicial review. Except for misdelivery of goods, a District Collector may not, in the absence of abuse of authority, be liable to any person for any loss occasioned either by the official act or the acts of the subordinates.

SEC. 1511. *Interest Prohibited to be Held by Customs Employees.* — Any person employed under the authority of the government in the assessment of duties, taxes, fees and other charges in connection with imports or exports, shall not own, either in whole or in part, any vessel or aircraft or act as attorney, agent or consignee for the owner of any vessel or aircraft or of any cargo loaded on board the vessel or aircraft; and shall not import or be involved, directly or indirectly, in the importation of any goods for sale into the Philippines.

SEC. 1512. *Reward to Persons Instrumental in the Actual Collection of Additional Revenues Arising from the Discovery of Violations of this Act.* — A cash reward equivalent to twenty percent (20%) of the actual proceeds from the sale of smuggled goods and confiscated goods or actual collection of additional revenues shall be given to the customs and non-customs informers or whistleblowers who are instrumental in the collection of additional revenues arising from the discovery of violations of this Act in accordance with the rules and regulations to be issued by the Secretary of Finance.

SEC. 1513. *Outsourcing of Non-Sovereign Customs Functions to Private Entities.* — Subject to the approval of the Secretary of Finance, the Bureau may outsource any of its non-sovereign and ancillary function to a qualified and competent private entity in accordance with government rules on service procurement.

SEC. 1514. *International Standards and Best Practices.* — The Bureau may adopt international standards and best practices in customs administration laid down by international agreement or convention pertaining to trade facilitation, supply chain security, and related matters, whether or not the Philippines is a signatory to such international agreement or convention.

TITLE XVI

TARIFF ADMINISTRATION AND POLICY

CHAPTER I

TARIFF COMMISSION

SEC. 1600. *Chief Officials of the Tariff Commission and Qualifications.* — The officials of the Tariff Commission shall consist of a Chairperson and two (2) Commissioners to be appointed by the President of the Philippines. The Chairperson and the Commissioners shall be natural-born citizens of the Philippines, of good moral character and proven integrity, and who, by

experience and academic training possess the necessary qualifications requisite for developing expert knowledge of tariff and trade related matters. During their terms of office, the Chairperson and the Commissioners shall not engage in the practice of any profession, or intervene directly or indirectly in the management or control of any private enterprise which may, in any way, be affected by the functions of their office. They shall not be, directly or indirectly, financially interested in any contract with the government, or any subdivision or instrumentality thereof.

SEC. 1601. *Appointment and Compensation of Officials and Employees.* — All employees of the Commission shall be appointed by the Chairperson in accordance with the Civil Service Law except as the private secretaries to the offices of the Chairperson, Commissioners and Executive Director.

SEC. 1602. *Official Seal.* — The Commission is authorized to adopt an official seal.

SEC. 1603. *Functions of the Commission.* — The Commission shall have the following functions:

- (a) Adjudicate cases on the application of trade remedies against imports pursuant to Sections 711, 712 and 713 of this Act;
- (b) Study the impact of tariff policies and programs on national competitiveness and consumer welfare in line with the economic objectives of the government;
- (c) Administer the Philippine tariff schedules and tariff nomenclatures;
- (d) Issue advance rulings on tariff classification of imported goods and render rulings on disputes over tariff classification of goods pursuant to Section 1100 of this Act, except in cases involving goods on which the Commission has provided advance ruling on tariff classification;

(e) Provide the President and Congress with independent analysis, information and technical support on matters related to tariff and nontariff measures affecting Philippine industries and exports for policy guidance;

(f) Analyze the nature and composition, and the classification of goods according to tariff commodity classification and heading number for customs and other related purposes, which information shall be furnished the NEDA, DTL, DA, DOF, DENR, and BSP;

(g) Review the trade agreements for negotiation and trade agreements entered into by the Philippines and make recommendations, if necessary, on the consistency of the terms of the agreements with the national policy objectives;

(h) Conduct public consultations and public hearings pursuant to its functions; and

(i) Deputize or delegate, to appropriate government agency its function of rendering rulings on disputes over tariff classification of goods, until the plantilla positions necessary for undertaking such function have been approved and filled-up: *Provided*, That such delegation of function shall not extend beyond three (3) years from the effectivity of this Act.

SEC. 1604. *Reports of the Commission.* — The Commission shall place at the disposal of the President and any Member of the Congress of the Philippines all information at its command. It shall conduct such investigation and submit reports as may be required by the President and the Congress of the Philippines. It shall likewise report to the President and Congress on the first Monday of December of each year and hereafter, a statement of methods adopted and a summary of all reports made during the year.

SEC. 1605. *Access to Documents and Assistance to the Commission.* — The Commission or its duly authorized representative shall have access to any document, paper or record pertinent to the subject matter under investigation, in the

possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of goods under investigation, and shall have power to summon witnesses, take testimony, administer oaths, and to issue *subpoena duces tecum* requiring the production of books, papers, or documents relating to the matter under investigation. The Commission may also request the views, recommendations, and assistance of any government office, agency, or instrumentality who shall be expected to cooperate fully with the Commission.

SEC. 1606. *Sworn and Verified Statements.* — The Commission may order the taking of sworn statements at any stage of any proceeding or investigation before it. The sworn statements must be made before a person duly authorized to administer oaths.

The Commission is authorized to require any importer, grower, producer, manufacturer or seller to file with the Commission a statement, under oath, giving the selling prices in the Philippines of goods imported, grown, produced, fabricated or manufactured by such person.

SEC. 1607. *Implementing Rules and Regulations.* — The Commission shall promulgate and adopt such rules and regulations as may be necessary to carry out the provisions of this Act.

CHAPTER 2

FLEXIBLE TARIFF

SEC. 1608. *Flexible Clause.* — (a) In the interest of the general welfare and national security, and subject to the limitations prescribed under this Act, the President, upon the recommendation of the NEDA, is hereby empowered to:

(1) Increase, reduce, or remove existing rates of import duty including any necessary change in classification. The existing rates may be increased or decreased to any level, in one or several

stages, but in no case shall the increased rate of import duty be higher than a maximum of one hundred percent (100%) *ad valorem*;

(2) Establish import quotas or ban imports of any commodity, as may be necessary; and

(3) Impose an additional duty on all imports not exceeding ten percent (10%) *ad valorem* whenever necessary: *Provided*, That upon periodic investigations by the Commission and recommendation of the NEDA, the President may cause a gradual reduction of rates of import duty granted in Section 1611 of this Act, including those subsequently granted pursuant to this section.

(b) Before any recommendation is submitted to the President by the NEDA pursuant to the provisions of this section, except in the imposition of an additional duty not exceeding ten percent (10%) *ad valorem*, the Commission shall conduct an investigation and shall hold public hearings wherein interested parties shall be afforded reasonable opportunity to be present, to produce evidence and to be heard. The Commission shall also hear the views and recommendations of any government office, agency, or instrumentality. The Commission shall submit its findings and recommendations to the NEDA within thirty (30) days after the termination of the public hearings.

(c) The power of the President to increase or decrease rates of import duty within the limits fixed in subsection (a) hereof shall include the authority to modify the form of duty. In modifying the form of duty, the corresponding *ad valorem* or specific equivalents of the duty with respect to imports from the principal competing foreign country for the most recent representative period shall be used as basis.

(d) Any order issued by the President pursuant to the provisions of this section shall take effect thirty (30) days after promulgation, except in the imposition of additional duty not exceeding ten percent (10%) *ad valorem* which shall take effect at the discretion of the President.

(e) The power delegated to the President as provided for in this section shall be exercised only when Congress is not in session.

(f) The power herein delegated may be withdrawn or terminated by Congress through a joint resolution.

The NEDA shall promulgate rules and regulations necessary to carry out the provisions of this section.

SEC. 1609. *Promotion of Foreign Trade.* — (a) For the purpose of expanding foreign markets for Philippine products as a means of assisting in the economic development of the country, in overcoming domestic unemployment, in increasing the purchasing power of the Philippine peso, and in establishing and maintaining better relations between the Philippines and other countries, the President, shall, from time to time:

(1) Enter into trade agreements with foreign governments or instrumentalities thereof; and

(2) Modify import duties, including any necessary change in classification and other import restrictions as are required or appropriate to carry out and promote foreign trade with other countries: *Provided*, That in modifying import duties or fixing import quota, the requirements prescribed in subsection (a) of Section 1608 of this Act shall be observed: *Provided, however*, That any modification in import duties and the fixing of import quotas pursuant to the various trade agreements the Philippines has entered into, shall not be subject to the limitations of aforesaid subsection (a) of Section 1608.

(b) The duties and other import restrictions as modified in subsection (a) of this section, shall apply to goods which are the growth, produce, or manufacture of the specific country, whether imported directly or indirectly, with which the Philippines has entered into a trade agreement: *Provided*, That the President may suspend the application of any concession to goods which are the growth, produce, or manufactured product of the specific country because of acts or policies which tend to defeat the purposes

set in this section, including the operations of international cartels; and the duties and other import restrictions as negotiated shall be in force and effect from and after such time as specified in the order, without prejudice to the Philippine commitments in any ratified international agreement or treaty.

(c) Nothing in this section shall be construed to give any authority to cancel or reduce in any manner the indebtedness of any foreign country to the Philippines or any claim of the Philippines against any foreign country.

(d) Before any trade agreement is concluded with any foreign government or instrumentality thereof, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that interested persons may have an opportunity to present their views to the Commission. The Commission shall seek information and advice from the DTL, DA, DOF, DENR, DFA and BSP, and from such other sources as it may deem appropriate.

(e) In advising the President, on a trade agreement entered into by the Philippines, the following shall be observed:

(1) The Commission shall determine whether or not the domestic industry has suffered or is being threatened with injury and whether or not the wholesale prices at which the domestic products are sold are reasonable, taking into account the cost of raw materials, labor, overhead, a fair return on investment, and the overall efficiency of the industry.

(2) The NEDA shall evaluate the report of the Commission and submit recommendations to the President.

(3) Upon receipt of the report of the findings and recommendations of the NEDA, the President may prescribe adjustments in the rates of import duties, withdraw, modify or suspend, in whole or in part, any concession under any trade agreement, establish import quota, or institute such other import restrictions, as the NEDA recommends to be necessary in order to fully protect domestic industry and the consumers, subject to

the condition that the wholesale prices of the domestic products shall be reduced to, or maintained at, the level recommended by the NEDA unless, for good cause shown, an increase thereof, as recommended by the NEDA, is authorized by the President. Should increases be made without such authority, the NEDA shall immediately notify the President who shall allow the importation of competing products in such quantities as to protect the public from the unauthorized increase in wholesale prices.

(f) This section shall not prevent the effectivity of any executive agreement or any future preferential trade agreement with any foreign country.

(g) The NEDA and the Commission shall promulgate such reasonable procedures, rules and regulations as they may deem necessary to execute their respective functions under this section.

CHAPTER 3

TARIFF NOMENCLATURE AND RATE OF DUTY

SEC. 1610. *General Rules for the Interpretation (GRI).*
—The classification of goods and its tariff nomenclature as provided pursuant to this Act shall be governed by the following principles:

(1) The titles of sections, chapters and subchapters are provided for easy reference only. For legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions:

(2)(a) Any reference in a heading to the goods shall be taken to include a reference to the same in their incomplete or unfinished form or state: *Provided*, That the incomplete or unfinished goods have the essential character, as presented, of the complete or finished goods. It shall also be taken to include a reference to the same, in their complete or finished form or state (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

(3) When by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two (2) or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two (2) or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration;

(4) Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

(5) In addition to the foregoing provisions, the following Rules shall apply with respect to the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain specific goods or set of goods, suitable for long-term use and presented with the goods for which they are intended, shall be classified with such goods when of a kind normally sold therewith. The Rule does not, however, apply to containers which give the whole its essential character; and

(b) Subject to the provisions of Rule 5(a), packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

(6) For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the Rule, the relative section and Chapter Notes also apply, unless the context otherwise requires.

SEC. 1611. *Tariff Nomenclature and Rates of Import Duty.*

- The provisions of Section 104 on Rates of Import Duty of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, specifically providing for the tariff sections, chapters, headings and subheadings and the rates of import duty, shall still apply and shall supplement this Act. There shall be levied, collected and paid upon all imported goods the rates of duty indicated thereon except as otherwise specifically provided for in this Act: *Provided*, That the maximum rate shall not exceed one hundred percent (100%) *ad valorem*.

The rates of duty provided or subsequently fixed pursuant to Sections 1608 and 1609 of this Act shall be subject to periodic investigation by the Tariff Commission and may be revised by the President, upon the recommendation of the NEDA.

It shall also apply to all products, whether imported directly or indirectly, of all foreign countries, which do not discriminate against Philippine export products. An additional one hundred percent (100%) across-the-board duty shall be levied on the products of any foreign country which discriminates against Philippine export products.

SEC. 1612. *Tariff Nomenclature and Rates of Export Duty.* — The provisions of Section 514 on Export Products Subject to Duty and Rates of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of 1978, as amended, specifically providing for the export products subject to duty and rates, shall still apply and shall supplement this Act.

TITLE XVII

CONGRESSIONAL OVERSIGHT COMMITTEE

SEC. 1700. *Congressional Oversight Committee.* — The Congressional Customs and Tariff Oversight Committee, herein referred to as the Committee, is hereby constituted in accordance with the provisions of this Act. The Committee shall be composed of the Chairpersons of the Committee on Ways and Means of the Senate and House of Representatives and four (4) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Committee shall, among others, in aid of legislation:

- (a) Monitor and ensure the proper implementation of this Act;
- (b) Review the collection performance of the Bureau; and
- (c) Review the implementation of the programs of the Bureau.

In furtherance of the hereinabove cited objectives, the Committee shall require the Bureau to submit all pertinent information which includes:

- (1) Industry audits;
- (2) Collection performance data; and
- (3) Status report on administrative, civil and criminal actions initiated against persons.

TITLE XVIII

FINAL PROVISIONS

SEC. 1800. *Implementing Rules and Regulations.* — The Secretary of Finance shall, upon the recommendation of the Commissioner, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 1801. *Transitory Provisions.* — All suits, proceedings, or prosecutions whether civil or criminal, for causes arising or acts done or committed prior to the effectivity of this Act, shall be commenced and prosecuted within the same time in the same manner and with the same effect as if this Act had not been enacted and all rights acquired, offenses committed, and penalties or forfeitures or liabilities waived prior to the said effectivity shall not be affected thereby.

SEC. 1802. *Saving Clause.* — All other laws, acts, executive orders, and Customs Administrative Orders (CAOs), Customs Memorandum Orders (CMOs), orders, memoranda, circulars, rules and regulations issued by the Bureau, under the provisions of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, not inconsistent with the provisions of this Act, shall remain valid unless the same will be repealed or amended accordingly, pursuant to the provisions of this Act.

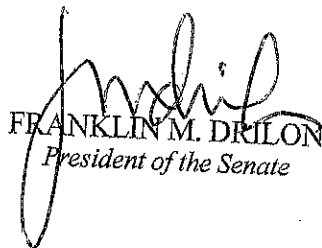
SEC. 1803. *Repealing Clause.* — Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, and Presidential Decree No. 1853 which require any applicant for letter of credit covering imports to deposit the full amount of duties due on the

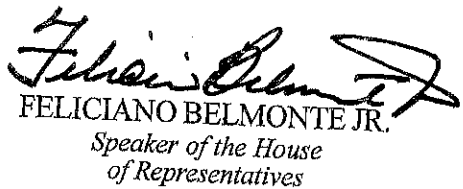
importation, are hereby expressly repealed. All other laws, acts, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby expressly repealed, amended or modified accordingly.

SEC. 1804. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the remaining provisions or parts shall remain in full force and effect.

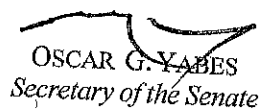
SEC. 1805. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

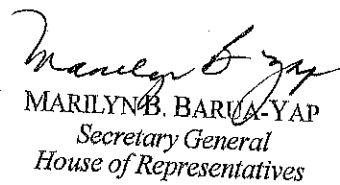
Approved,


FRANKLIN M. DRILON
President of the Senate

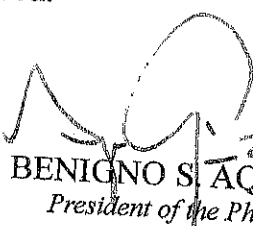

FELICIANO BELMONTE JR.
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 5525 and Senate Bill No. 2968 was finally passed by the House of Representatives and the Senate on February 2, 2016.


OSCAR G. YABES
Secretary of the Senate


MARILYN B. BARUA-YAP
*Secretary General
House of Representatives*

Approved: MAY 30 2016


BENIGNO S. AQUINO III
President of the Philippines

