

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



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SENATE
P.S.R No. 444

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE STUDY CONDUCTED BY THE FEDERATION OF PHILIPPINE INDUSTRIES WHICH FOUND THAT THE GOVERNMENT LOST MORE THAN P1.33 TRILLION IN REVENUE FROM 2002 TO 2011 DUE TO TECHNICAL SMUGGLING THROUGH THE COUNTRY'S PORTS

WHEREAS, the Constitution, Article 2, Section 27 provides: "The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption;"

WHEREAS, the Constitution, Article 2, Section 23 further mandates: "The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation";

WHEREAS, the *Philippine Daily Inquirer*, in its 14 January 2014 issue, reported on a study from the Federation of Philippine Industries (FPI), a group comprised of about 800 companies, which found that the government lost more than P1.33 trillion in revenue from 2002 to 2011 due to smuggling through the country's ports;

WHEREAS, the FPI study also reportedly found that the lost revenues from 2002 to 2008 came up to P889.5 billion, with further losses of P119.65 billion in 2009, and P326.76 billion in 2010 and 2011;

WHEREAS, the FPI's findings were said to be based on the disparities in import data from the Bureau of Customs (BOC) and the International Monetary Fund (IMF), where the IMF reported more than \$284 billion in total exports to the Philippines during the 2002-2008 period alone, while BOC records showed only \$195.01 billion in the same period, amounting to a disparity of \$88.9 billion;

WHEREAS, the FPI study also found that the data from foreign exporters said goods shipped to the Philippines amounted to more than \$70.5 billion in 2010 and \$78.4 billion in 2011; on the other hand, government statistics reportedly showed imports of only \$51.07 billion in 2010 and \$54.3 billion in 2011, or disparities of \$19.43 billion and \$24.1 billion, respectively;

WHEREAS, the FPI report said the smugglers employed the same old modus operandi of undervaluation, misdeclaration, misclassification, and diversion of shipments—activities considered by the group as technical smuggling;

WHEREAS, even though the FPI study did not include lost revenue due to “outright smuggling” or operations that take place in isolated parts of the country and do not involve import documents, FPI officials reportedly said that both technical and outright smuggling have robbed the government of much-needed revenues;

WHEREAS, FPI chair Jesus Arranza reportedly said that the smugglers created unfair competition to local manufacturers, resulting in decreased capacity utilization, as well as the downsizing, if not closure, of many firms leading to unemployment and dislocation of laborers;

WHEREAS, Arranza also reportedly said that smuggling also discourages foreign investors from setting up operations in the Philippines once they realize their products are already sold freely in the domestic market;

WHEREAS, the FPI study cited various actual cases backed by official documents, one of them the case of a consignee of a May 2006 shipment of steel bars, where the study said that

“In its import declaration, the company declared 3,000 metric tons of ‘round bars’ with a value of \$230 per MT, or a tariff rate of 1 percent. After the FPI tipped off Customs that half of the items was able to skip the bureau premises, it was only then the BOC issued an alert order and the subsequent seizure of the imported goods. It turned out the shipment consisted of 3,009.3 MT of deformed steel bars, which were subject to checks under the Mandatory Product Standards. Also, the prevailing price of the item was \$425.7 per MT with a corresponding tariff rate of 7 percent, not 1 percent”;

WHEREAS, the news report also cited another case mentioned by FPI report, one involving the supposed consignee of two containers of used clothing that arrived at Subic Bay Freeport in Zambales province on 23 April 2006:

“The shipment was found to have not only undervalued but also misdeclared its weight because there was an excess of 31,270 kilograms over the declared 20,000 kg, or a discrepancy of 61.33 percent ... On paper, the shipment’s ultimate consignee ... would subsequently reexport the items when in reality, the unrecorded volume of goods would find its way to the local market. This would explain the various apprehensions of used clothing being whisked out in closed vans from the warehouses in Subic”;

WHEREAS, the FPI study also mentioned a case of misdeclaration of imports involving a trading company, which on 19 August 2007 declared a shipment of hand tools from China but turned out to be onions, one of the regulated agricultural products in the Philippines;

WHEREAS, another item in the FPI study involved the group tipping the BOC of the agency’s X-ray machines which failed to detect the previously mentioned smuggling attempt;

WHEREAS, the FPI recommended to the BOC the following measures to help stop smuggling, as it did during the previous administration:

- classifying smuggling as an act of plunder with penalties based on the cumulative evaded duties and taxes;
- disallowing free ports and economic zones as ports of entry for imports;

- destruction of smuggled goods, except some items that can be donated to concerned government agencies (like the Department of Social Welfare and Development) and charity organizations;
- and the designation of special courts to handle smuggling cases;

WHEREAS, it was reported that the FPI entered into an agreement with the BOC on 19 November 2010 for an exchange of nonclassified information and for the FPI to be allowed to identify import transactions detrimental to domestic industries; the agreement also authorized the FPI to assist the BOC in the physical and documentary inspection of all imported goods covered by the bureau's Mandatory Product Standards Certification

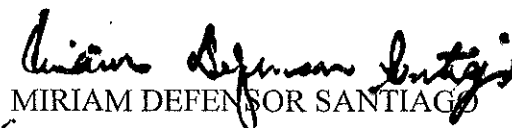
WHEREAS, the said agreement also reportedly required the BOC to release only those shipments that are in compliance with the rules and regulations of the Philippine National Standards, and in the case of agricultural products, those that have been issued release orders by the corresponding government agencies; also, the FPI was also required by the agreement to provide the BOC with qualified industry technical experts to monitor the shipment of imported goods;

WHEREAS, Congress should consider formulating legislation based on the recommendations of the FPI to curb, if not eliminate, technical smuggling in the country to ensure that these guidelines and warnings would not be ignored by the present administration nor the next;

WHEREAS, Congress should augment and strengthen existing and relevant legislation that could either complement or directly promulgate the recommendations by the FPI;

WHEREFORE, BE IT RESOLVED BY THE PHILIPPINE SENATE to direct the proper Senate committee to conduct an inquiry, in aid of legislation, on the study conducted by the Federation of Philippine Industries which found that the government lost more than P1.33 trillion in revenue from 2002 to 2011 due to technical smuggling through the country's ports.

Approved,


MIRIAM DEFENSOR SANTIAGO

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