

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

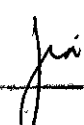


Senate
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SENATE

S. B. No. 442

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Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

This piece of legislation principally seeks to address the perennial problem of smuggling in the Bureau of Customs (BOC) by amending the pertinent provisions of the Tariff and Customs Code or Presidential Decree No. 1464.

This bill prescribes a new set of stringent requirements for surety companies and bonded warehouses doing business in the BOC. Surety companies are given the threshold amount of 30% of the total due and demandable bonds as the minimum liability in the BOC with which it can no longer issue bonds in favor of the BOC and be subjected to cancellation of its permit or license.

In the case of bonded warehouses entities and locators, which include even those operating under the charter of the Philippine Economic Zone Authority (PEZA), the Subic Bay Metropolitan Authority (SBMA), and other freeports and ecozones, their paid-up capital and net assets are to be made equivalent to the value of goods of unliquidated entries stored in their respective warehouses.

Customs officials tasked to examine and appraised the value of goods is to be mandated to certify such under oath. Moreover, a valuation library, updated at all times, is to be used as reference and basis for examination and appraisal.

Lastly, smuggling is made a graver offense in this proposed legislation by applying graduated penalties depending on the form of smuggling committed and the value of the goods concerned. It provides as maximum the penalty of life imprisonment for smuggling if the value of the goods unlawfully imported exceeds Php1,000,000.00.

In the light of the foregoing, and if only to establish an effective system of addressing smuggling and corruption in the BOC, immediate passage of this bill is sincerely sought.

FRANCIS G. ESCUDERO



13 JUL -4 18:17

SENATE

S. B. No. 442

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Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 1464,
OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES,
AS AMENDED

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

1 SECTION 1. *Short Title.* - This Act shall be known and cited as the "Anti-Smuggling
2 Act."

3 SEC. 2. Section 201, Title II, Part 1 of the Tariff and Customs Code of the
4 Philippines, as amended, is hereby further amended to read as follows:

5 "Sec. 201. *Basis of Dutiable Value.* - (A) *Method One.* - *Transaction Value.* - The
6 dutiable value of an imported article subject to an *ad valorem* rate of duty shall be
7 the transaction value, which shall be the price actually paid or payable for the
8 goods when sold for export to the Philippines, adjusted by adding:

9 (1) The following to the extent that they are incurred by the buyer but are not
10 included in the price actually paid or payable for the imported goods:

11 (a) Commissions and brokerage fees (except buying commissions);

12 (b) Cost of containers;

13 (c) The cost of packing, whether for labour or materials;

1 (d) The value, apportioned as appropriate, of the following goods and
2 services: materials, components, parts and similar items incorporated in the
3 imported goods; tools; dies; moulds and similar items used in the production of
4 imported goods; materials consumed in the production of the imported goods;
5 and engineering, development, artwork, design work and plans and sketches
6 undertaken elsewhere than in the Philippines and necessary for the production
7 of imported goods, where such goods and services are supplied directly or
8 indirectly by the buyer free of charge or at a reduced cost for use in connection
9 with the production and sale for export of the imported goods;

10 (e) The amount of royalties and license fees related to the goods being valued
11 that the buyer must pay, either directly or indirectly, as a condition of sale of the
12 goods to the buyer.

13 (2) The value of any part of the proceeds of any subsequent resale, disposal or
14 use of the imported goods that accrues directly or indirectly to the seller;

15 (3) The cost of transport of the imported goods from the port of exportation
16 to the port of entry in the Philippines;

17 (4) Loading, unloading and handling charges associated with the transport of
18 the imported goods from the country of exportation to the port of entry in the
19 Philippines; and

20 (5) The cost of insurance.

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

23 No additions shall be made to the price actually paid or payable in
24 determining the customs value except as provided in this Section: *Provided, That*

1 Method One shall not be used in determining the dutiable value of imported
2 goods if:

3 (a) There are restrictions as to the disposition or use of the goods by the buyer
4 other than restrictions which:

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

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

7 (iii) Do not substantially affect the value of the goods.

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

10 (c) Part of the proceeds of any subsequent resale, disposal or use of the goods
11 by the buyer will accrue directly or indirectly to the seller, unless an appropriate
12 adjustment can be made in accordance with the provisions hereof; or

13 (d) The buyer and the seller are related to one another, and such relationship
14 influenced the price of the goods. Such persons shall be deemed related if:

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

16 (ii) They are legally recognized partners in business;

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

18 (iv) Any person directly or indirectly owns, controls or holds five percent
19 (5%) or more of the outstanding voting stock or shares of both seller and buyer;

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

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

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

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

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

5 (B) *Method Two. - Transaction Value of Identical Goods.* - Where the dutiable
6 value cannot be determined under method one, the dutiable value shall be the
7 transaction value of identical goods sold for export to the Philippines and
8 exported at or about the same time as the goods being valued. "*Identical goods*"
9 shall mean goods which are the same in all respects, including physical
10 characteristics, quality and reputation. Minor differences in appearances shall
11 not preclude goods otherwise conforming to the definition from being regarded
12 as identical.

13 (C) *Method Three. - Transaction Value of Similar Goods.* - Where the dutiable
14 value cannot be determined under the preceding method, the dutiable value
15 shall be the transaction value of similar goods sold for export to the Philippines
16 and exported at or about the same time as the goods being valued. "*Similar*
17 *goods*" shall mean goods which, although not alike in all respects, have like
18 characteristics and like component materials which enable them to perform the
19 same functions and to be commercially interchangeable. The quality of the
20 goods, their reputation and the existence of a trademark shall be among the
21 factors to be considered in determining whether goods are similar.

22 If the dutiable value still cannot be determined through the successive
23 application of the two immediately preceding methods, the dutiable value shall
24 be determined under method four or, when the dutiable value still cannot be
25 determined under that method, under method five, except that, at the request of

1 the importer, the order of application of methods four and five shall be reversed:
2 *Provided, however,* That if the Commissioner of Customs deems that he will
3 experience real difficulties in determining the dutiable value using method five,
4 the Commissioner of Customs may refuse such a request in which event the
5 dutiable value shall be determined under method four, if it can be so
6 determined.

7 (D) *Method Four. – Deductive Value.* – The dutiable value of the imported
8 goods under this method shall be the deductive value which shall be based on
9 the unit price at which the imported goods or identical or similar imported
10 goods are sold in the Philippines, in the same condition as when imported, in the
11 greatest aggregate quantity, at or about the time of the importation of the goods
12 being valued, to persons not related to the persons from whom they buy such
13 goods, subject to deductions for the following:

14 (1) Either the commissions usually paid or agreed to be paid or the additions
15 usually made for profit and general expenses in connection with sales in such
16 country of imported goods of the same class or kind;

17 (2) The usual costs of transport and insurance and associated costs incurred
18 within the Philippines; [and]

19 (3) Where appropriate, the costs and charges referred to in subsection (A) (3),
20 (4) and (5); and

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

23 If neither the imported goods nor identical nor similar imported goods are
24 sold at or about the time of importation of the goods being valued in the
25 Philippines in the conditions as imported, the customs value shall, subject to the

1 conditions set forth in the preceding paragraph hereof, be based on the unit price
2 at which the imported goods or identical or similar imported goods sold in the
3 Philippines in the condition as imported at the earliest date after the importation
4 of the goods being valued but before the expiration of ninety (90) days after such
5 importation.

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

14 (E) *Method Five. - Computed Value.* - The dutiable value under this method
15 shall be the computed value which shall be the sum of:

16 (1) The cost or the value of materials and fabrication or other processing
17 employed in producing the imported goods;

18 (2) The amount for profit and general expenses equal to that usually reflected
19 in the sale of goods of the same class or kind as the goods being valued which
20 are made by producers in the country of exportation for export to the
21 Philippines;

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

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

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

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

11 (F) *Method Six. - Fallback Value.* - If the dutiable value cannot be determined
12 under the preceding methods described above, it shall be determined by using
13 other reasonable means and on the basis of data available in the Philippines.

14 If the importer so requests, the importer shall be informed in writing of the
15 dutiable value determined under Method Six and the method used to determine
16 such value.

17 No dutiable value shall be determined under Method Six on the basis of:

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

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

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

22 (4) The cost of production, other than computed values, that have been
23 determined for identical or similar goods in accordance with Method Five
24 hereof;

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

1 (6) Minimum customs values; or

2 (7) Arbitrary or fictitious values.

3 "If in the course of determining the dutiable value of the imported goods, it
4 becomes necessary to delay the final determination of such dutiable value, the
5 importer shall nevertheless be able to secure the release of the imported goods
6 upon filing of a sufficient guarantee in the form of a LETTER OF CREDIT, surety
7 bond, a deposit, cash, or some other appropriate instrument in an amount
8 equivalent to the imposable duties and taxes [on] FOR WHICH the imported
9 goods [in question] may be liable: *Provided, however,* That goods, the importation
10 of which is prohibited by law, shall not be released under any circumstances
11 whatsoever: *PROVIDED, FURTHER,* THAT SURETY BONDS FROM A
12 SURETY COMPANY WHICH HAS AN OUTSTANDING LIABILITY OF
13 THIRTY PERCENT (30%) OR MORE OF THE TOTAL DUE AND
14 DEMANDABLE BONDS ISSUED IN FAVOR OF THE BUREAU OF CUSTOMS,
15 AT ANY TIME, SHALL NOT BE ACCEPTABLE AS GUARANTEE FOR THE
16 RELEASE OF THE IMPORTED GOODS: *PROVIDED, FURTHERMORE,* THAT
17 THE PERMIT OR LICENSE OF THE SURETY COMPANY WHICH HAS AN
18 OUTSTANDING LIABILITY OF THIRTY PERCENT (30%) OR MORE OF THE
19 TOTAL DUE AND DEMANDABLE BONDS, AT ANY TIME, WITH THE
20 BUREAU OF CUSTOMS, TO ISSUE SURETY BOND FOR CUSTOMS
21 PURPOSES, SHALL BE CANCELLED: *PROVIDED, FINALLY,* THAT ANY
22 SURETY COMPANY SHALL BE ELIGIBLE TO ISSUE CUSTOMS SURETY
23 BOND ONLY AFTER DETERMINATION OF GOOD STANDING BY THE
24 INSURANCE COMMISSION.

1 "THE BUREAU OF CUSTOMS SHALL ACCEPT GUARANTEES IN THE
2 FORM OF SURETY BONDS EXCLUSIVELY ISSUED BY SURETY COMPANIES,
3 INCLUDING THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS),
4 WHO ARE MEMBERS OF A BUREAU OF CUSTOMS' APPROVED
5 CONSORTIUM.

6 "Nothing in this Section shall be construed as restricting or calling into
7 question the right of the Collector of Customs to satisfy himself as to the truth or
8 accuracy of any statement, document or declaration presented for customs
9 valuation purposes. When a declaration has been presented and where the
10 customs administration has reason to doubt the truth or accuracy of the
11 particulars or of documents produced in support of this declaration, the customs
12 administration may ask the importer to provide further explanation, including
13 documents or other evidence, that the declared value represents the total amount
14 actually paid or payable for the imported goods, adjusted in accordance with the
15 provisions of Subsection (A) hereof.

16 "If, after receiving further information, or in the absence of a response, the
17 customs administration still has reasonable doubts about the truth or accuracy of
18 the declared value, it may, without prejudice to an importer's right to appeal
19 pursuant to Article 11 of the World Trade Organization Agreement on customs
20 valuation, be deemed that the customs value of the imported goods cannot be
21 determined under Method One. Before taking a final decision, the Collector of
22 Customs shall communicate to the importer, in writing if requested, his grounds
23 for doubting the truth or accuracy of the particulars or documents produced and
24 give the importer a reasonable opportunity to respond. When a final decision is

1 made, the customs administration shall communicate to the importer in writing
2 its decision and the grounds therefor."

3 **SEC. 3.** Section 607 of the Tariff and Customs Code of the Philippines, as amended, is
4 hereby further amended to read as follows:

5 "SEC. 607. *Annual Report of Commissioner.* - The annual report of the
6 Commissioner to the President shall, among other things, contain a compilation
7 of the (a) quantity and value of the articles imported into the Philippines and the
8 corresponding amount of customs duties, taxes and other charges assessed and
9 collected on imported articles itemized in accordance with the tariff headings
10 and subheadings as appearing in the liquidated customs entries provided for in
11 this Code, (b) percentage collection of the peso value of imports, (c) quantity and
12 value of conditionally-free importations, (d) customs valuation over and above
13 letters of credit opened, (e) quantity and value of tax-free imports, and (f) the
14 quantity and value of articles exported from the Philippines as well as the taxes
15 and other charges assessed and collected on them for the preceding year. Copies
16 of such annual report [shall be furnished regularly] to the Department of
17 Finance, Tariff Commission, NATIONAL ECONOMIC AND DEVELOPMENT
18 AUTHORITY, [Central Bank of the Philippines] BANGKO SENTRAL NG
19 PILIPINAS, Board of Investments, Department of Budget AND
20 MANAGEMENT, and other economic agencies of the government, on or before
21 December 30, of each year.

22 "For more scientific preparation of the annual report, the Commissioner shall
23 cause the computerization of the data contained in the liquidated entries filed
24 with the Bureau of Customs."

1 **SEC. 4.** Section 609 of the Tariff and Customs Code of the Philippines, as amended, is
2 hereby further amended to read as follows:

3 *"SEC. 609. Commissioner to Furnish Copies of Collectors' Liquidated Duplicates. -*
4 The Commissioner shall regularly furnish the NATIONAL ECONOMIC AND
5 DEVELOPMENT AUTHORITY, the [Central Bank of the Philippines] BANGKO
6 SENTRAL NG PILIPINAS, the Tariff Commission, AND THE NATIONAL
7 STATISTICS OFFICE, BOTH ELECTRONIC AND PAPER COPIES of each of all
8 customs import/export entries as filed with the Bureau of Customs. The Tariff
9 Commission or its duly authorized agents shall have access to and the right to
10 copy all the customs liquidated import entries and other documents appended
11 thereto as finally filed in the Commission on Audit. "

12 **SEC. 5.** Section 701 of the Tariff and Customs Code of the Philippines, as amended,
13 is hereby further amended to read as follows:

14 *"SEC. 701. Collection Districts and Ports of Entry Thereof. - For*
15 administrative purposes, the Philippines shall be divided into as many collection
16 districts as necessary, the respective limits of which may be changed from time
17 to time by the Commissioner of Customs upon approval of the Secretary of
18 Finance. The principal ports of entry for the respective collection districts shall
19 be Manila, Ninoy Aquino International Airport, Cebu, Iloilo, Davao, Tacloban,
20 GENERAL SANTOS, Zamboanga, Cagayan de Oro, Surigao, Legaspi, Batangas,
21 San Fernando, Subic and Manila International Container Port."

22 **SEC. 6.** Section 709 of the Tariff and Customs Code of the Philippines, as amended, is
23 hereby further amended to read as follows:

24 *"SEC. 709. Authority of the Collector to Remit Duties. - A Collector shall [have*
25 discretionary authority to] remit the assessment and collection of customs duties,

1 taxes and other charges when the aggregate amount of such duties, taxes, and
2 other charges is [less than ten] FIVE HUNDRED pesos (P500.00) OR MORE, and
3 he may dispense with the seizure of articles of less than [ten] FIVE HUNDRED
4 pesos (P500.00) in value except in cases of prohibited importations or the
5 habitual or the intentional violation of the tariff and customs laws."

6 **SEC. 7.** A new section to be known as Section 1001-A is hereby inserted after Section
7 1001 of the Tariff and Customs Code of the Philippines, as amended, which shall read as
8 follows:

9 "SEC. 1001-A. TRANSMISSION OF ELECTRONIC COPY OF
10 MANIFEST/STOWAGE PLAN PRIOR TO ARRIVAL - AN ELECTRONIC COPY
11 OF THE CARGO AND PASSENGER MANIFEST AS WELL AS THE STOWAGE
12 PLAN OF THE VESSEL ENGAGED IN FOREIGN TRADE SHALL BE
13 TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST TWELVE (12)
14 HOURS FOR OCEAN GOING VESSELS AND TWO (2) HOURS FROM
15 DEPARTURE FOR AIRLINES PRIOR TO THEIR ARRIVAL IN THE PORT OF
16 ENTRY: PROVIDED; THAT IF THE VESSEL IS AN AIRCRAFT, THE
17 MANIFEST SHALL BE ELECTRONICALLY TRANSMITTED TO THE BUREAU
18 OF CUSTOMS, DEPARTMENT OF TRADE AND INDUSTRY, AND
19 DEPARTMENT OF AGRICULTURE AT LEAST ONE (1) HOUR PRIOR TO THE
20 AIRCRAFT'S ARRIVAL IN THE PORT OF ENTRY."

21 **SEC. 8.** Section 1005 of the Tariff and Customs Code of the Philippines, as amended, is
22 hereby further amended to read as follows:

23 "SEC. 1005. *Manifest Required of Vessel from Foreign Port.* - Every vessel from a
24 foreign port must have on board a complete manifest of all her cargo.

1 "All of the cargo intended to be landed at a port in the Philippines must be
2 described in separate manifests for each port of call therein. Each manifest shall
3 include the port of departure and the port of delivery with the marks, numbers,
4 quantity and description of the packages and the names of the consignees
5 thereof. Every vessel from a foreign port must have on board complete
6 manifests of passengers and their baggage, in the prescribed form, setting forth
7 their destination and all particulars required by immigration laws, and every
8 such vessel shall have prepared for presentation to the proper customs official
9 upon arrival in ports of the Philippines a complete list of all sea stores then on
10 board. If the vessel does not carry cargo or passengers, the manifest must show
11 that no cargo or passenger, as the case may be, is carried from the port of
12 departure to the port of destination in the Philippines.

13 "A TRUE AND COMPLETE COPY OF THE CARGO MANIFEST AND BILL
14 OF LADING SHALL BE SENT IN ADVANCE TO THE BUREAU OF CUSTOMS
15 AND THE PHILIPPINE PORTS AUTHORITY WITHIN TWENTY-FOUR
16 HOURS (24) HOURS AFTER RECEIPT THEREOF BY THE MASTER OF THE
17 VESSEL.

18 "A cargo manifest shall in no case be changed or altered after entry of the
19 vessel, except by means of an amendment by the master, consignee or agent
20 thereof, under oath, and attached to the original manifest: *Provided, however,*
21 That after the invoice and/or entry covering an importation have been received
22 and recorded [in the office of the appraiser] EITHER MANUALLY OR
23 ELECTRONICALLY IN THE BUREAU OF CUSTOMS OR HAD BEEN
24 LOGGED IN ITS COMPUTER SYSTEM, no amendment of the manifest shall be
25 allowed, except when it is obvious that a clerical error or any discrepancy has

1 been committed in the preparation of the manifest, without any fraudulent
2 intent, discovery of which would not have been made until after examination
3 has been completed."

4 **SEC. 9.** Section 1007 of the Tariff and Customs Code of the Philippines, as
5 amended, is

6 hereby further amended to read as follows:

7 "SEC. 1007. *Manifest for Commission on Audit and Collector. - Papers to be*
8 *Deposited with Consul.* - Immediately after the arrival of a vessel from a foreign
9 port, the master shall deliver or mail to the Chairman, Commission on Audit,
10 Manila, a copy of the cargo manifest properly indorsed by the boarding officer,
11 and UPON ARRIVAL, he shall present to the Collector the original copy of the
12 cargo manifest and, for inspection, the ship's register or other document in lieu
13 thereof, together with the clearance and other papers granted to the vessel at the
14 port of departure for the Philippines.

15 "WITHIN THREE DAYS FROM RECEIPT OF THE CARGO MANIFEST
16 FROM THE MASTER OF THE VESSEL, THE COLLECTOR SHALL POST
17 COPIES THEREOF AT A CUSTOMS BULLETIN BOARD FOR TWO
18 CONSECUTIVE WEEKS."

19 **SEC. 10.** Section 1008 of the Tariff and Customs Code of the Philippines, as amended, is
20 hereby further amended to read as follows:

21 "SEC. 1008. *Transit Cargo AND FOREIGN TRANSHIPMENT OF GOODS. -*
22 When transit cargo from a foreign port or other local ports is forwarded from the
23 port of importation separate manifest, in triplicate, shall be presented by each
24 carrier.

1 "WITHIN FIVE DAYS FROM THE ACTUAL DISCHARGE OF A VESSEL,
2 BUT IN ANY CASE NOT LATER THAN FIFTEEN (15) DAYS FROM THE
3 DATE OF THE VESSEL'S DEPARTURE FROM THE PHILIPPINES, THE PARTY
4 WHO APPLIED FOR FOREIGN TRANSSHIPMENT OF GOODS SUBJECT TO
5 EXCISE TAX OR MORE THAN TWENTY PERCENT (20%), SUCH AS THE
6 SHIPPING COMPANY OR AGENT, TRANSSHIPMENT OPERATOR OR THE
7 OWNER OF THE GOODS SHALL SUBMIT TO THE BUREAU OF CUSTOMS
8 AND/OR TO THE BUREAU OF INTERNAL REVENUE, A CERTIFICATE OF
9 DISCHARGE FROM THE FOREIGN PORT OF DISCHARGE OR
10 DESTINATION. THE CERTIFICATE OF DISCHARGE SHALL CERTIFY THAT
11 THE EXCISABLE GOODS TRANSSHIPPED FROM THE PHILIPPINES WERE
12 DISCHARGED AT THE PORT OF DESTINATION AND RECEIVED BY THE
13 CONSIGNEE NAMED IN THE MANIFEST. THE CERTIFICATE OF
14 DISCHARGE SHALL BE ISSUED BY THE CUSTOMS OR PORT OFFICIALS AT
15 THE FOREIGN PORT OF DESTINATION: *PROVIDED*, THAT IF THE SAID
16 CERTIFICATE IS IN A FOREIGN LANGUAGE OTHER THAN ENGLISH, IT
17 SHALL BE ACCOMPANIED BY AN ENGLISH TRANSLATION DULY
18 AUTHENTICATED BY A PHILIPPINE COMMERCIAL ATTACHE OR
19 CONSUL. THE CERTIFICATE OF DISCHARGE TO BE SUBMITTED TO THE
20 BUREAU OF CUSTOMS AND/OR BUREAU OF INTERNAL REVENUE
21 SHALL BE ACCOMPANIED BY A COPY OF THE INWARD FOREIGN
22 MANIFEST SUBMITTED TO, RECEIVED BY, AND PROPERLY STAMPED BY
23 THE CUSTOMS AUTHORITIES AT THE PORT OF DESTINATION.

24 "FAILURE TO SUBMIT THE CERTIFICATE OF DISCHARGE AND THE
25 INWARD FOREIGN MANIFEST AS REQUIRED HEREINABOVE SHALL

1 CONSTITUTE *PRIMA FACIE* PROOF THAT THE EXCISABLE GOODS AS
2 MENTIONED HEREIN THAT THE GOODS ALLEGEDLY TRANSSHIPPED
3 WERE IN FACT DIVERTED TO THE PHILIPPINES, WITHOUT THE
4 CORRESPONDING PAYMENT OF DUTIES AND TAXES WHICH SHALL BE
5 IMMEDIATELY COLLECTED AND PAID BY THE PARTY(IES) WHICH
6 FAILED TO SUBMIT THE CERTIFICATE OF DISCHARGE. THEREAFTER
7 AND UNTIL THE REQUIRED CERTIFICATE OF DISCHARGE AND THE
8 INWARD FOREIGN MANIFEST SHALL HAVE BEEN SUBMITTED, ALL
9 SUBSEQUENT TRANSSHIPMENT OF GOODS TO AND FROM THE
10 PHILIPPINES BY THE SAID PARTY(IES) WITHOUT THE PAYMENT OF
11 DUTIES AND TAXES SHALL BE DISALLOWED. THE SUBMISSION OF THE
12 CERTIFICATE OF DISCHARGE IS REQUIRED ONLY FOR TRANSSHIPPED
13 GOODS SUBJECT TO EXCISE TAX OF MORE THAN TWENTY PERCENT
14 (20%) IN ADDITION TO THE PAYMENT OF TAXES AND DUTIES IF SUCH
15 GOODS ENTER THE DOMESTIC MARKET."

16 **SEC. 11.** Section 1204 of the Tariff and Customs Code of the Philippines, as amended,
17 is hereby further amended to read as follows:

18 "SEC 1204. *Liability of Importer for Duties.* --"Unless relieved by laws or
19 regulations, the liability for duties, taxes, fees and other charges attaching on
20 importation constitutes a personal debt from the importer to the government
21 which can be discharged only by payment in full of all duties, taxes, fees and
22 other charges legally accruing. It constitutes a lien upon the articles imported
23 which may be enforced while such articles are in custody or subject to the
24 control of the government."

1 **SEC. 12.** Section 1210 of the Tariff and Customs Code of the Philippines, as amended, is
2 hereby further amended to read as follows:

3 “SEC. 1210. *Disposition of Imported Articles Remaining on Vessel After Time for*
4 *Unlading.* – Imported articles remaining on board any vessel after the expiration
5 of the said period for discharge and not reported for transshipment to another
6 port, may be unladen by customs authorities and stored at the vessel’s expense.

7 “Unless prevented by causes beyond the vessel’s control, such as port
8 congestion, strikes, riots, or civil commotions, failure of vessel’s gear, bad
9 weather, and similar causes, articles so stored shall be entered within [thirty]
10 FORTY FIVE ([30]45) days, which shall not be extendible, from the date of
11 discharge of the last package from the vessel or aircraft and shall be claimed
12 within [fifteen] FORTY FIVE ([15]45) days, which shall likewise not be
13 extendible from the date of posting of the notice to claim in conspicuous places
14 in the Bureau of Customs. If not entered or not claimed, it shall be disposed of in
15 accordance with the provisions of this Code.”

16 **SEC. 13.** A new section, to be known as Section 1212 is hereby inserted in the Tariff and
17 Customs Code of the Philippines, as amended, to read as follows:

18 “SEC. 1212. *IMPORT PERMIT/IMPORT AUTHORITY FOR*
19 *AGRICULTURAL PRODUCTS.* – IMPORTED AGRICULTURAL PRODUCTS
20 MUST BE COVERED BY A VALID IMPORT OR QUARANTINE PERMIT
21 ISSUED BY THE DEPARTMENT OF AGRICULTURE OR ITS CONCERNED
22 BUREAU PRIOR TO IMPORTATION INTO THE PHILIPPINES, OTHERWISE,
23 THE SAME AGRICULTURAL PRODUCTS MUST BE SHIPPED BACK TO THE
24 COUNTRY OF ORIGIN BY THE IMPORTER OR CONSIGNEE THROUGH THE
25 SAME CARRIER THAT LOADED/TRANSPORTED OR BROUGHT IN THE

1 PRODUCT THAT WAS ISSUED BY AN IMPORT ENTRY OR IMPORT
2 AUTHORITY AFTER ENTRY INTO THE PHILIPPINES WHEN SUCH IMPORT
3 PERMIT/AUTHORITY IS REQUIRED PRIOR TO IMPORTATION OF SUBJECT
4 AGRICULTURAL PRODUCT, SHALL BE CONSIDERED AS SMUGGLED
5 ARTICLE AND SHALL BE DISPOSED OF IN THE MANNER PROVIDED FOR
6 IN SECTION 2602 OF THIS CODE."

7 **SEC. 14.** Section 1302 of the Tariff and Customs Code of the Philippines, as amended, is
8 hereby further amended to read as follows:

9 "SEC. 1302. *Import Entries.* - All imported articles, except importations
10 admitted free of duty under Subsection "k", Section one hundred and five of this
11 Code, shall be subject to a formal or informal entry. Articles of a commercial
12 nature intended for sale, barter or hire, the dutiable value of which is Two
13 thousand pesos (P2,000.00) or less, and personal and household effects or
14 articles, not in commercial quantity, imported in passenger's baggage, mail or
15 otherwise, for personal use, shall be cleared on an informal entry whenever
16 duty, tax or other charges are collectible.

17 The Commissioner may, upon instruction of the Secretary of Finance, for the
18 protection of domestic industry or of the revenue, require a formal entry,
19 regardless of value, whatever be the purpose and nature of the importation.

20 "A formal entry may be for immediate consumption, or under irrevocable
21 domestic letter of credit, bank guarantee or bond for:

22 "(a) Placing the article in customs bonded warehouse;

23 "(b) Constructive warehousing and immediate transportation to other ports
24 of the Philippines upon proper examination and appraisal; or

25 "(c) Constructive warehousing and immediate exportation.

1 "FOR PURPOSES HERETO, ALL WAREHOUSING ENTRIES SHALL
2 EXPLICITLY AND CLEARLY INDICATE THE NAME OF THE WAREHOUSE
3 WHERE THE IMPORTED ARTICLES WILL BE PLACED OR DEPOSITED, AND
4 THE NAME OF THE IMPORTER OR CONSIGNEE.

5 "Import entries under irrevocable domestic letter of credit, bank guarantee or
6 bond shall be subject to the provisions of Title V, Book II of this Code.

7 "All importations entered under formal entry shall be covered by a letter of
8 credit or any other verifiable document evidencing payment." (R.A. 9135, April
9 27, 2001)

10 **SEC. 15.** Section 1313 of the Tariff and Customs Code of the Philippines, as amended, is
11 hereby further amended to read as follows:

12 "SEC. 1313. *Information Furnished on Classification and Value.* -

13 a. As to classification OF AN ARTICLE AND TRADE FACILITATION -
14 [When an article imported or intended to be imported is not specifically
15 classified in this Code, the interested party, importer or foreign exporter may
16 submit to the Tariff Commission a sample together with a full description of its
17 component materials and uses, and request it in writing to indicate the heading
18 under which the article is or shall be dutiable, and the Tariff Commission shall
19 comply with such requests within thirty days from receipt thereof if it is satisfied
20 that the application is made in good faith, in which case classification of the
21 article in question upon the particular importation involved shall be made
22 according to the heading indicated by the Tariff Commission: *Provided, however,*
23 That such rulings of the Tariff Commission on commodity classification, shall be
24 binding upon the Bureau of Customs, unless the Secretary shall rule otherwise.]
25 IMPORTERS, EXPORTERS OR ANY INTERESTED PARTY SHALL REQUEST

1 THE TARIFF COMMISSION IN WRITING, BEFORE OR AFTER THE ARRIVAL
2 OF THE GOODS OR COMMODITY SUBJECT OF IMPORTATION FOR AN
3 OFFICIAL TARIFF CLASSIFICATION RULING UPON SUBMISSION OF A
4 SAMPLE TOGETHER WITH THE BROCHURE AND PERTINENT
5 TECHNICAL INFORMATION SHEETS/DATA. THE TARIFF COMMISSION
6 SHALL COMPLY WITH SUCH A REQUEST WITHIN THIRTY (30) DAYS
7 FROM RECEIPT HEREOF. THE RULING SHALL BE BINDING WITH THE
8 BUREAU OF CUSTOMS, UNLESS THE SECRETARY OF FINANCE SHALL
9 RULE OTHERWISE. ANY TARIFF CLASSIFICATION RULING/S AS MAY BE
10 ISSUED BY THE COMMISSION SHALL REMAIN VALID AND EFFECTIVE,
11 UNLESS SUCH TARIFF CLASSIFICATION RULING/S ARE AMENDED BY
12 THE COMMISSION SO AS TO CORRECT ERRORS IN THE CLASSIFICATION
13 OF AN ARTICLE OR IN CASES OF AMENDMENT TO THE ASEAN
14 HARMONIZED TARIFF NOMENCLATURE (AHTN), OR FOR ANY OTHER
15 REASON AS THE COMMISSION MAY SEE FIT."

16 "ANY PETITIONING PARTY WHO IS AGGRIEVED BY, OR IS NOT
17 SATISFIED WITH THE RESULT ON ANY TARIFF CLASSIFICATION
18 RULING AS ISSUED BY THE TARIFF COMMISSION, MAY FILE A VERIFIED
19 APPEAL WITHIN THIRTY (30) DAYS FROM RECEIPT OF SUCH TARIFF
20 CLASSIFICATION RULING OF THE TARIFF COMMISSION BASED ON THE
21 SOLE GROUND OF NEW OR ADDITIONAL INFORMATION OF THE
22 PRODUCT UNDER CONSIDERATION. AN APPEAL FEE OF ONE
23 THOUSAND PESOS (P1,000.00) SHALL LIKEWISE BE REQUIRED TO BE PAID
24 BY THE APPEALING PARTY, WITHOUT THE PAYMENT OF WHICH HIS OR
25 HER APPEAL WOULD BE DISMISSED OUTRIGHT BY THE COMMISSION."

1 **SEC. 16.** Section 1401 of the Tariff and Customs Code of the Philippines as amended, is
2 hereby further amended to read as follows:

3 “SEC. 1401. *Conditions for Examination.* — For the protection of government
4 revenue and public interest and to prevent the entry into the country of
5 smuggled or contraband goods, the Commissioner shall, in consultation with the
6 Oversight Committee and subject to the approval of the Secretary of Finance,
7 promulgate the rules and regulations that shall prescribe the procedure in
8 accordance with which examination shall be undertaken on the importation and
9 the required quantity or percentage thereof: *Provided,* That the imported articles
10 shall in any case be subject to the regular physical examination when:

11 “(1) The government surveyor's seal on the container has been tampered with
12 or broken or the container shows signs of having been opened or having its
13 identity changed;

14 “(2) The container is leaking or damaged;

15 “(3) The number, weight and nature of packages indicated in the customs
16 entry declaration and supporting documents differ from that in the manifest;

17 “(4) The shipment is covered by alert/hold orders issued pursuant to existing
18 orders;

19 “(5) The importer disagrees with the findings as contained in the government
20 surveyor's report; or

21 “(6) The articles are imported through air freight where the Commissioner or
22 Collector has knowledge that there is a variance between the declared and true
23 quantity, measurement, weight, and tariff classification.”

24 “(7) THE PRODUCT DESCRIPTION OF THE SHIPMENT IS NOT IN
25 ACCORDANCE WITH THE EXISTING HARMONIZED SYSTEMS CODE.”

1 **SEC. 17.** A new section to be known as Section 1401-A is hereby inserted after Section
2 1401 of the Tariff and Customs Code of the Philippines, as amended, which shall read as
3 follows:

4 “SEC. 1401-A. *VALUATION LIBRARY.* - THE COMMISSIONER SHALL
5 ENSURE THAT THERE SHALL BE A VALUATION LIBRARY, WHICH SHALL
6 BE KEPT UP TO DATE AND MAINTAINED USING THE BEST AVAILABLE
7 TECHNOLOGY. THE VALUATION LIBRARY SHALL BE MADE READILY
8 AVAILABLE TO THE PUBLIC AS AUTHORIZED BY THE BUREAU OF
9 CUSTOMS.”

10 **SEC. 18.** Section 1403 of the Tariff and Customs Code of the Philippines, as amended, is
11 hereby further amended to read as follows:

12 “Sec. 1403. *Duties of Customs Officer Tasked to Examine, Classify and Appraise*
13 *Imported Articles.* - The customs officer tasked to examine, classify, and appraise
14 imported articles shall determine whether the packages designated for
15 examination and their contents are in accordance with the declaration in the
16 entry, invoice and other pertinent documents and shall make a return in such a
17 manner to indicate whether the articles have been truly and correctly declared in
18 the entry as regard their quantity, measurement, weight, and tariff classification
19 and not imported contrary to law. THE CUSTOMS OFFICER SHALL USE THE
20 VALUATION LIBRARY AS A REFERENCE ONLY IN CLASSIFYING AND
21 APPRAISING THE IMPORTED ARTICLES.

22 “Likewise, the customs officer shall determine the unit of quantity in which
23 they are usually bought and sold and appraise the imported articles in
24 accordance with Section 201 of this Code.

1 "Failure on the part of the customs officer to comply with his duties shall
2 subject him to penalties prescribed under 3604 of this Code. (RA 7650, April 06,
3 1993."

4 **SEC. 19.** Section 1704(d) of the Tariff and Customs Code of the Philippines, as amended,
5 is hereby further amended to read as follows:

6 "SEC. 1704. *Abatement or Refund of Duties on Articles Lost or Destroyed After*
7 *Arrival.* - A Collector may abate or refund the amount of duties accruing or paid,
8 and may likewise make a corresponding allowance on the irrevocable domestic
9 letter of credit, bank guarantee, or the entry bond or other document, upon
10 satisfactory proof of injury, destruction, or loss by theft, fire or other causes of
11 any article as follows:

12 "a. While within the limits of any port of entry prior to unloading under
13 customs supervisions;

14 "b. While remaining in customs custody after unloading;

15 "c. While in transit under irrevocable domestic letter of credit, bank
16 guarantee or bond with formal entry in accordance with section one thousand
17 three hundred two from the port of entry to any port in the Philippines;

18 "d. While released under irrevocable domestic letter of credit, bank guarantee
19 or bond for export except in case of loss by theft: *PROVIDED, THAT NO*
20 *ABATEMENT OR REFUND SHALL BE MADE WHEN THE THEFT OCCURS*
21 *IN BONDED WAREHOUSES OUTSIDE OF THE CUSTOMS ZONE."*

22 **SEC. 20.** Section 1801 of the Tariff and Customs Code of the Philippines, as amended,
23 is hereby further amended to read as follows:

24 "SEC. 1801. *Abandonment, Kinds and Effects of.* - An imported article is
25 deemed abandoned under any of the following circumstances:

1 "a. When the owner, importer, consignee of the imported article expressly
2 signifies in writing to the Collector of Customs his intention to abandon; or

3 "b. When the owner, importer, consignee or interested party after due notice,
4 fails to file an entry within thirty (30) days, which shall not be extendible, from
5 the date of discharge of the last package from the vessel or aircraft, or having
6 filed such entry, fails to claim his importation within fifteen (15) days, which
7 shall not likewise be extendible, from the date of posting of the notice to claim
8 such importation.

9 "ALL SHIPPING LINES, SHIPPING COMPANIES, FREIGHT
10 FORWARDERS, CONSOLIDATORS, BREAK BULK AGENTS AND THEIR
11 AGENTS AND SUB-AGENTS ARE REQUIRED TO STATE IN BOLD,
12 PROMINENT AND COMPREHENSIBLE CHARACTERS THE PHRASE
13 'CUSTOMS LAW REQUIRES THE FILING OF ENTRY WITHIN THIRTY (30)
14 DAYS FROM THE DATE OF DISCHARGE OF THE LAST PACKAGE FROM
15 THE VESSEL, OTHERWISE, THE CARGO MAY BE DEEMED ABANDONED
16 AND TO BE FORFEITED IN FAVOR OF THE GOVERNMENT AND SHALL BE
17 DISPOSED OF IN ACCORDANCE WITH THIS CODE' IN EACH AND EVERY
18 NOTICE OF ARRIVAL TO THE OWNERS, IMPORTERS, CONSIGNEES OR
19 OTHER INTERESTED PARTIES. THE SAME SHALL SERVE TO SATISFY THE
20 DUE NOTICE REQUIREMENT REFERRED TO IN PARAGRAPH (B) HEREOF,
21 IN WHICH CASE THE OWNER, IMPORTER OR CONSIGNEE OF THE
22 IMPORTATION SHALL HAVE A PERIOD OF THIRTY (30) DAYS, WHICH
23 SHALL NOT BE EXTENDIBLE, FROM THE DATE OF DISCHARGE OF THE
24 LAST PACKAGE FROM THE VESSEL WITHIN WHICH TO FILE THE
25 APPROPRIATE ENTRY. FAILURE ON THE PART OF THE SHIPPING LINES,

1 SHIPPING COMPANIES, FREIGHT FORWARDERS, CONSOLIDATORS,
2 BREAK BULK AGENTS AND THEIR AGENTS AND SUB-AGENTS TO
3 COMPLY HEREWITH SHALL CONSTITUTE A GROUND FOR THE
4 SUSPENSION OF THEIR LICENSES OR AUTHORITY TO ENGAGE IN THEIR
5 RESPECTIVE LINE OF ACTIVITIES IN THE IMPORTATION OPERATIONS OR
6 WHEN THERE IS A WRITTEN DENIAL OF OWNERSHIP FROM THE
7 PERSON INDICATED ON THE MANIFEST OR BILL OF LADING AS THE
8 OWNER, IMPORTER, OR CONSIGNEE OF THE IMPORTED ARTICLE.

9 "NON-COMPLIANCE WITH THE PROVISIONS OF THIS SECTION SHALL
10 CONSTITUTE A GROUND FOR THE IMPOSITION OF FINES IN
11 PROGRESSIVE SUCCESSION.

12 "Any person who abandons an article or who fails to claim his importation as
13 provided for in the preceding paragraph shall be deemed to have renounced all
14 his interests and property rights therein. (R.A. 7651, June 4, 1993)."

15 **SEC. 21.** Section 1802 of the Tariff and Customs Code of the Philippines, as amended, is
16 hereby further amended to read as follows:

17 "SEC. 1802. *Abandonment of Imported Articles.* - An abandoned article shall
18 ipso facto be deemed the property of the Government. ALL ABANDONED
19 ARTICLES SHALL BE AUTOMATICALLY SUBJECT TO AUCTION AND
20 SHALL IN NO CASE BE SUBJECT TO SETTLEMENT OR COMPROMISE.

21 "AN UPDATED LISTING OF ALL ABANDONED SHIPMENTS
22 SCHEDULED FOR AUCTION SHALL BE POSTED ON THE OFFICIAL
23 WEBSITE OF THE BUREAU OF CUSTOMS AND AT THE MAIN ENTRANCE
24 OF CUSTOMS HOUSES.

1 "Nothing in this section shall be construed as relieving the owner or importer
2 from any criminal liability which may arise from any violation of law committed
3 in connection with the importation of abandoned article.

4 "Any official or employee of the Bureau of Customs or of other government
5 agencies who, having knowledge of the existence of an abandoned article or
6 having control or custody of such abandoned article, fails to report to the
7 Collector within twenty-four (24) hours from the time the article is deemed
8 abandoned shall be punished with the penalties prescribed in Paragraph 1,
9 Section 3604 of this Code." (RA 7651, June 4, 1993)

10 **SEC. 22.** Section 1901 of the Tariff and Customs Code of the Philippines, as amended, is
11 hereby further amended to read as follows:

12 "SEC. 1901. *Establishment and Supervision of Warehouses.* - When the business
13 of the port requires such facilities, the Collector, subject to the approval of the
14 Commissioner, shall designate and establish INDUSTRY SPECIFIC warehouses
15 for use as public and private bonded warehouses, sheds or yards, or for other
16 special purposes. ALL SUCH WAREHOUSES SHALL BE ACCREDITED BY AN
17 ACCREDITATION COMMITTEE WHICH SHALL BE COMPOSED OF THE
18 SECRETARY OF TRADE AND INDUSTRY, AS CHAIR THEREOF, AND ONE
19 REPRESENTATIVE EACH FROM THE INDUSTRY ASSOCIATION OR
20 INDUSTRY SECTOR AFFECTED, AND THE INDUSTRY ASSOCIATION
21 SOUGHT TO BE SERVICED BY THE CUSTOMS BONDED WAREHOUSE
22 SUBJECT TO THE FINAL APPROVAL OF THE BUREAU OF CUSTOMS.

23 "All such warehouses and premises shall be subject to the supervision of the
24 Collector, who shall impose such conditions as may be deemed necessary for the
25 protection of the revenue and of the articles stored therein. THE CUSTOMS

1 COLLECTOR SHALL CONDUCT SPOT CHECKS AND PERIODIC AUDITS TO
2 ENSURE THAT APPLICABLE CUSTOMS LAWS AND REGULATIONS ARE
3 COMPLIED WITH BY BONDED FACILITIES.”

4 **SEC. 23.** Section 1902 of the Tariff and Customs Code of the Philippines, as amended, is
5 hereby further amended to read as follows:

6 “SEC. 1902. *Responsibility of Operators.* – The operators of bonded
7 warehouses in case of loss of the imported articles stored shall be liable for the
8 payment of duties and taxes due thereon.

9 “The government assumes no legal responsibility in respect to the
10 safekeeping of articles stored in any customs warehouses, sheds, yards or
11 premises.

12 “THE OPERATORS OF THE BONDED WAREHOUSES SHALL, FOR
13 LEGITIMATE PURPOSES, MAKE AVAILABLE AN INVENTORY OF ALL
14 ARTICLES STORED THEREIN. FAILURE TO DO SO IS A MANDATORY
15 GROUND FOR THE REVOCATION OF LICENSE TO OPERATE A BONDED
16 WAREHOUSE.”

17 **SEC. 24.** Section 1903 of the Tariff and Customs Code of the Philippines, as amended, is
18 hereby further amended to read as follows:

19 “SEC. 1903. *Bonded Warehouses.* – Application for the establishment of bonded
20 warehouses must be made in writing and filed with the Collector, describing the
21 premises, the location, and capacity of the same, the purpose for which the
22 building is to be used, AND THE INDUSTRY TO WHICH IT BELONGS. THE
23 APPLICATION SHALL LIKEWISE BE ACCOMPANIED BY VERIFIED COPIES
24 OF DOCUMENTS INDICATING THE OWNERSHIP AND THE FINANCIAL
25 CAPACITY OF THE BONDED WAREHOUSE.

1 "Upon receipt of such application, the Collector shall cause an examination of
2 the premises, with reference particularly to its location, construction and means
3 provided for the safekeeping of articles. THE COLLECTOR SHALL LIKEWISE
4 DETERMINE THE OWNERSHIP OF THE APPLICANT BONDED
5 WAREHOUSE OR TO VERIFY OWNERS OF A BONDED WAREHOUSE
6 WHICH HAD BEEN CLOSED DUE TO ITS NON-COMPLIANCE WITH
7 CUSTOMS LAWS and REGULATIONS WHICH HAS ANY INTEREST
8 THEREIN. [i]f THE APPLICATION IS found satisfactory, [he] THE
9 COLLECTOR may authorize its establishment, and accept a bond for its
10 operation and maintenance. The operator of such bonded warehouse shall pay
11 an annual supervision fee in an amount to be fixed by the Commissioner. The
12 bonded warehouse officers and other employees thereof shall be regular customs
13 employees who shall be appointed in accordance with the Civil Service Law,
14 rules and regulations.

15 "THE PAID-UP CAPITAL AND NET ASSETS OF THE BONDED
16 WAREHOUSE SHALL BE SET AT AN AMOUNT DETERMINED BY THE
17 COMMISSIONER AS SUFFICIENT TO COVER THE DUTIES AND TAXES OF
18 IMPORT ENTRIES ENTERED INTO THE BONDED WAREHOUSE THAT ARE
19 DUE AND DEMANDABLE, OTHERWISE, THE APPLICATION SHALL NOT
20 BE GRANTED."

21 "SEC. 1903-A. REGULAR AUDIT OF BONDED WAREHOUSE. - A
22 REGULAR AUDIT OF ALL BONDED WAREHOUSES SHALL BE
23 CONDUCTED BY THE COLLECTOR, WHICH AUDIT SHALL BE SUBJECT
24 TO AUTOMATIC REVIEW BY THE COMMISSIONER, UPON PETITION OF
25 AN INTERESTED PARTY. A SECOND AUDIT MAY BE CONDUCTED BY

1 THE DEPUTY COMMISSIONER OR AN INDEPENDENT AUDIT MAY BE
2 MADE UPON INSTANCE OF THE PETITIONING PARTY IN
3 COORDINATION WITH THE COMMISSIONER."

4 **SEC. 25.** Section 1905 of the Tariff and Customs Code of the Philippines, as amended, is
5 hereby further amended to read as follows:

6 "SEC. 1905. *Discontinuance of Warehouses.* - The use of any warehouse may be
7 discontinued by the Collector at any time when conditions so warrant, or in the
8 case of a private warehouse, upon receipt of written request to that effect from
9 the operator thereof of the premises, provided all the requirements of the law
10 and regulations have been complied with by said operator. A LEGITIMATE
11 INDUSTRY GROUP MAY FILE A COMPLAINT IN WRITING WITH THE
12 COMMISSIONER OF CUSTOMS FOR THE COLLECTOR THE
13 DISCONTINUANCE OF THE BONDED WAREHOUSE ON GROUNDS OF
14 NON-COMPLIANCE WITH THE REQUIREMENTS OF LAW AND
15 REGULATIONS. When the dutiable article is stored in such premises, the same
16 must be removed at the risk and expense of the operator and the premises shall
17 not be relinquished, nor discontinuance of its use authorized, until a careful
18 examination of the account of the warehouse shall have been made.
19 Discontinuance of any warehouse shall be effective upon official notice and
20 approval thereof by the Collector."

21 **SEC. 26.** Section 1907 of the Tariff and Customs Code of the Philippines, as amended, is
22 hereby further amended to read as follows:

23 "SEC. 1907. *Withdrawal of Articles from Bonded Warehouse.* - Articles entered
24 under irrevocable domestic letter of credit[,] OR bank guarantee or bond may be
25 withdrawn at any time for consumption, for transportation to another port, for

1 exportation or for delivery on board a vessel or aircraft engaged in foreign trade
2 for use on board such vessel or aircraft as sea stores or aircraft stores after
3 liquidation of the entry: *PROVIDED*, THAT PROOF IS SHOWN THAT THE
4 ORDER TO IMPORT THE SUBJECT ARTICLES HAS BEEN CANCELLED:
5 *PROVIDED, FURTHER*, THAT THE ARTICLES TO BE WITHDRAWN DO NOT
6 AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL
7 INVENTORY OF THE BONDED WAREHOUSE. The withdrawal must be made
8 ONLY BY THE IMPORTER OF THE ARTICLES BEING WITHDRAWN OR BY
9 A REPRESENTATIVE [by a person or firm duly authorized by the former,]
10 whose authority must appear in writing upon the face of the withdrawal entry."

11 **SEC. 27.** Section 1908 of the Tariff and Customs Code of the Philippines, as amended,
12 is hereby further amended to read as follows:

13 "*SEC. 1908. Limit to Period of Storage in Bonded Warehouse.* - Articles duly
14 entered for warehousing may remain in bonded warehouses for a maximum
15 period of one year, **EXTENDIBLE FOR ANOTHER THREE (3) MONTHS** from
16 the time of [arrival] **RECEIPT OF THE WAREHOUSE** at the port of entry.
17 Articles not withdrawn at the expiration of the prescribed period shall be [sold at
18 public auction by the Collector] **DEEMED ABANDONED AND SUBJECT TO**
19 **DISPOSITION IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE.**
20 **THE BUREAU OF CUSTOMS SHALL ACCREDIT SPECIFIC INDUSTRIES**
21 **REQUIRING LONGER PERIOD OF STORAGE."**

22 "**A DAILY RECORD OF ALL ENTRIES LIQUIDATED SHALL BE POSTED**
23 **IN A CONSPICUOUS PLACE IN THE MAIN ENTRANCE OF THE CUSTOMS**
24 **HOUSE, STATING THE NAME OF THE VESSEL OR AIRCRAFT, THE PORT**
25 **FROM WHICH SHE ARRIVED, THE DATE OF HER ARRIVAL, THE NAME OF**

1 THE IMPORTER, AND THE SERIAL NUMBER OF THE DATE OF ENTRY.
2 THE COLLECTOR MUST ALSO KEEP A DAILY RECORD OF ALL
3 ADDITIONAL DUTIES, TAXES AND OTHER CHARGES FOUND UPON
4 LIQUIDATION, AND SHALL PROMPTLY SEND NOTICE TO THE
5 INTERESTED PARTIES."

6 "THE LIQUIDATION OF WAREHOUSING ENTRIES SHALL BE MADE
7 NOT MORE THAN THREE (3) MONTHS FROM THE TIME OF RECEIPT OF
8 THE WAREHOUSE."

9 **SEC. 28.** A new section to be known as Section 1910 is hereby inserted in Part 1, Title V,
10 Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

11 "SEC. 1910. ACTS DEEMED AS SMUGGLING PUNISHABLE UNDER
12 SECTIONS 3601 AND 3602 OF THIS CODE. - THE FOLLOWING SHALL BE
13 DEEMED AS ACTS OF SMUGGLING WHICH SHALL BE PUNISHABLE
14 UNDER SECTIONS 3601 AND 3602 OF THIS CODE:

15 "(A) BREAKING OF CUSTOMS SEALS OR UNAUTHORIZED REMOVAL
16 OF ARTICLES FROM BONDED WAREHOUSES;

17 "(B) SUBMISSION OF INCORRECT OR FALSE INFORMATION BY THE
18 BONDED WAREHOUSE;

19 "(C) WAREHOUSING OF THE FOLLOWING SHIPMENTS:

20 "1. FINISHED ARTICLES. - FINISHED ARTICLES, AS USED IN THIS
21 SECTION, SHALL REFER TO SCIENTIFICALLY OR TECHNOLOGICALLY
22 PROCESSED ARTICLES IN FINAL STATE SUCH THAT NO OTHER
23 PRODUCT CAN BE MANUFACTURED THEREFROM UNLESS ITS
24 PRINCIPAL CHARACTER IS FIRST DESTROYED.

1 "2. ARTICLES NOT DECLARED IN THE IMPORT ENTRIES OR IN
2 EXCESS OF THE VOLUME AND QUANTITY ALLOWED UNDER THE
3 LICENSE OF THE CUSTOMS BONDED WAREHOUSE PROVIDED THAT THE
4 RESTRICTION IN VOLUME AND QUANTITY SHALL NOT APPLY TO
5 EXPORTERS OPERATING UNDER CUSTOMS BONDED MANUFACTURING
6 WAREHOUSES.

7 "3. PROHIBITED ARTICLES AND REGULATED ARTICLES WITHOUT
8 THE CORRESPONDING CLEARANCE AND/OR IMPORT AUTHORITY
9 DULY ISSUED BY A COMPETENT AUTHORITY.

10 "(D) UNAUTHORIZED TRANSFERS FROM THE CUSTOMS ZONE OF
11 WAREHOUSING ARTICLES IMPORTED BY THE BONDED WAREHOUSE.

12 "(E) UNAUTHORIZED WITHDRAWAL FROM A BONDED WAREHOUSE
13 WITHOUT PAYMENT OF DUTIES AND TAXES.

14 "(F) FAILURE TO LIQUIDATE IMPORTED ARTICLES WITHDRAWN
15 FROM THE BONDED WAREHOUSE WITHIN SIX (6) MONTHS, EXTENDIBLE
16 FOR ANOTHER THREE (3) MONTHS, FROM THE TIME OF RECEIPT OF THE
17 CUSTOMS BONDED WAREHOUSE.

18 "(G) FAILURE TO PAY DUTIES AND TAXES ON THE REMAINING (NOT
19 EXPORTED) IMPORTED MATERIALS WITHIN THIRTY (30) DAYS FROM
20 LAPSE OF THE PERIOD FOR RE-EXPORTATION.

21 "IMPORTATIONS MADE IN VIOLATION OF THE ABOVE PROVISIONS
22 IN THIS SECTION SHALL *IPSO FACTO* BE FORFEITED IN FAVOR OF THE
23 GOVERNMENT TO BE DISPOSED OF PURSUANT TO THE PROVISIONS OF
24 THIS CODE PROVIDED DUE PROCESS IS FOLLOWED.

1 "THE BUREAU OF CUSTOMS SHALL APPROVE INDUSTRIES SEEKING
2 EXEMPTION FROM THE COVERAGE OF ANY OF THE ABOVE MENTIONED
3 PROVISIONS."

4 **SEC. 29.** A new section to be known as Section 1911 is hereby inserted in Part 1, Title V,
5 Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

6 "SEC. 1911. *VERIFICATION OF RECORDS KEPT IN CUSTOMS BONDED*
7 *WAREHOUSES.* - A CAREFUL ACCOUNT SHALL BE KEPT BY THE
8 COLLECTOR OF ALL ARTICLES DELIVERED TO ANY BONDED
9 WAREHOUSE, AND A SWORN MONTHLY RETURN, DULY VERIFIED BY
10 THE CUSTOMS OFFICIAL IN CHARGE, SHALL BE MADE BY THE BONDED
11 WAREHOUSE CONTAINING A DETAILED STATEMENT OF ALL IMPORTED
12 ARTICLES STORED THEREIN.

13 "ALL DOCUMENTS, BOOKS AND RECORDS OF ACCOUNTS
14 CONCERNING THE OPERATION OF ANY BONDED WAREHOUSE SHALL,
15 UPON DEMAND OF THE SECRETARY OF FINANCE, BE MADE AVAILABLE
16 TO THE COLLECTOR OR HIS REPRESENTATIVE, FOR PURPOSES OF
17 EXAMINATION AND/OR AUDIT."

18 **SEC. 30.** Section 2001 of the Tariff and Customs Code of the Philippines, as amended,
19 is hereby further amended to read as follows:

20 "SEC. 2001. *Establishment of Bonded Manufacturing Warehouses.* - All articles
21 manufactured in whole or in part of imported materials, and intended for
22 exportation without being charged with DUTIES AND TAXES [duty], shall, in
23 order to be so manufactured and exported, be made and manufactured in
24 manufacturing warehouses under such rules and regulations as the
25 Commissioner of Customs with the approval of the Secretary of Finance, shall

1 prescribe: *Provided*, That the manufacturer of such articles shall first file a
2 satisfactory bond for the faithful observance of all laws, rules and regulations
3 applicable thereto."

4 **SEC. 31.** Section 2002 of the Tariff and Customs Code of the Philippines, as amended, is
5 hereby further amended to read as follows:

6 "SEC. 2002. *Exemption from Duty.* -

7 a. Whenever articles manufactured in any bonded manufacturing warehouse
8 established under the provisions of the preceding section shall be exported
9 directly therefrom or shall be duly laden for immediate exportation under the
10 supervision of the proper official, such articles shall be exempt from duty.

11 b. Any imported material used in the manufacture of such articles, and any
12 package, covering, brand and label used in putting up the same may, under the
13 regulation prescribed by the Commissioner, with the approval of the Secretary of
14 Finance, be conveyed without the payment of DUTIES AND TAXES [duty] into
15 any bonded manufacturing warehouse, and imported articles may, under the
16 aforesaid regulations, be transferred without the payment of [duty] DUTIES
17 AND TAXES from any bonded warehouse into any bonded manufacturing
18 warehouse, or to duly accredited sub-contractors of manufacturers who shall
19 process the same into finished products for exports and deliver such finished
20 products back to the bonded manufacturing warehouse, therefrom to be
21 exported; but this privilege shall not be held to apply to implements, machinery
22 or apparatus to be used in the construction or repair of any bonded
23 manufacturing warehouse: *PROVIDED, HOWEVER, THAT THE IMPORTED*
24 *MATERIAL TRANSFERRED OR CONVEYED INTO ANY BONDED*
25 *WAREHOUSE OR DIRECTLY INTO ANY MANUFACTURING BONDED*

1 WAREHOUSE, PRIOR TO ITS UNLOADING, SO AS NOT TO BE SUBJECT TO
2 THE PAYMENT OF DUTY, SHALL BE SO MARKED, INDICATED AND
3 IDENTIFIED WITH THE LETTERS "CBW" PRINTED BOLDLY, LEGIBLY,
4 INDELIBLY, AND PERMANENTLY ON THE COVERING OF THE PACKAGE
5 OR SACK OF THE IMPORTED MATERIAL, SUBJECT TO THE LIMITATIONS
6 MENTIONED IN SUBPARAGRAPHS A, B, C, D AND H OF PARAGRAPH 3,
7 SECTION 303 OF THIS CODE: *Provided, [however]* FURTHER, That the materials
8 transferred or conveyed into any bonded manufacturing warehouse shall be
9 used in the manufacture of articles for exportation within a period of [nine (9)
10 months] THIRTY (30) DAYS from date of such transfer or conveyance into the
11 bonded manufacturing warehouse, which period may for sufficient reasons be
12 further extended for not more than [three (3) months] THIRTY (30) DAYS by the
13 Commissioner. Materials not used in the manufacture of articles for exportation
14 within the prescribed period shall pay the corresponding duties: *Provided,*
15 *[further]* FINALLY, That the operation of embroidery and apparel firms shall
16 continue to be governed by Republic Act Numbered Thirty-one hundred and
17 thirty-seven."

18 **SEC. 32.** Section 2003 of the Tariff and Customs Code of the Philippines, as amended,
19 is hereby further amended to read as follows:

20 "SEC. 2003. *Procedure for Withdrawal.* - Articles received into such bonded
21 manufacturing warehouse or articles manufactured therein may be withdrawn
22 or removed therefrom for direct shipment and for immediate exportation in
23 bond under the supervision of the proper customs officer, who shall certify to
24 such shipment and exportation, or lading for immediate exportation as the case
25 may be, describing the articles by their mark or otherwise, the quantity, the date

1 of exportation, in the name of the vessel or aircraft: *Provided*, That the waste and
2 by-products incident to the process of manufacture in said bonded warehouse
3 may be withdrawn for domestic consumption upon payment of duty equal to
4 the duty which would be assessed and collected pursuant to law if such waste or
5 by-products were imported from a foreign country: *Provided, further*, That all
6 waste materials may be [disposed] DESTROYED under government supervision.
7 All labor performed and services rendered under these provisions shall be under
8 the supervision of a proper customs official and at the expense of the
9 manufacturer.

10 "VIOLATION OF THE FOREGOING PROVISION SHALL BE DEEMED AS
11 SMUGGLING WHICH SHALL BE PUNISHABLE UNDER SECTIONS 3601
12 AND 3602 OF THIS CODE.

13 "THE ARTICLES SUBJECT OF THE VIOLATION SHALL *IPSO FACTO* BE
14 FORFEITED IN FAVOR OF THE GOVERNMENT TO BE DISPOSED OF
15 PURSUANT TO THE PROVISIONS OF THIS CODE."

16 **SEC. 33.** Section 2005 of the Tariff and Customs Code of the Philippines, as amended,
17 is hereby further amended to read as follows:

18 "SEC. 2005. *Bonded Smelting Warehouses.* - The plants of manufacturers
19 engaged in smelting or refining, or both, of ores and crude metals, may, upon the
20 filing of CASH bonds, be designated as bonded smelting warehouses. Ores or
21 crude metals may be removed from the vessel or aircraft in which imported, or
22 from a bonded warehouse, into a bonded smelting warehouse without the
23 payment of duties thereon, and there smelted or refined, or both, together with
24 ores or crude metals of home or foreign productions: *Provided*, That THE CASH
25 BOND SHALL BE IN a sum equal in amount to the regular duties which would

1 have been payable on such ores and crude metals if entered for consumption at
2 the time of their importation, and the several charges against such bond shall be
3 cancelled upon the exportation or delivery to bonded manufacturing warehouse
4 established under section twenty hundred and one hereof of a quantity of the
5 same kind of metal equal to the quantity of metal contained in such ores or crude
6 metals, due allowance being made of the smelter wastage as ascertained from
7 time by the Commissioner: *Provided, further,* That the said metals so producible
8 or any portion thereof, may be withdrawn for RE-EXPORTATION UPON
9 PROOF THAT THE ORDER TO IMPORT THE SUBJECT METALS HAS BEEN
10 CANCELLED AND THAT THE METALS TO BE WITHDRAWN DO NOT
11 AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL
12 INVENTORY OF THE BONDED SMELTING WAREHOUSE: *Provided, further,*
13 That on the arrival of the ores or crude metals at such establishments they shall
14 be sampled and assayed according to commercial methods under the
15 supervision of proper government officials: *Provided, further,* That all labor
16 performed and services rendered pursuant to this section shall be under the
17 supervision of the proper customs official and at the expenses of the
18 manufacturer: *Provided, further,* That all regulations for carrying out the
19 provisions of this section shall be prescribed by the Commissioner with the
20 approval of the department head: *Provided, FURTHER,* That the several charges
21 against the bond of any smelting warehouse established under the provisions of
22 this section may be cancelled upon the exportation or transfer to a bonded
23 manufacturing warehouse from any bonded smelting warehouse established
24 under this section of a quantity of the same kind of metal, in excess of that
25 covered by open bonds, equal to the amount of metal producible from the

1 smelting or refining, or both, of the dutiable metal contained in the imported
2 ores or crude metals, due allowance being made of the smelter wastage as
3 ascertained from time to time by the Commissioner with the approval of the
4 department head: *PROVIDED, FINALLY, THAT BONDED SMELTING*
5 *WAREHOUSES SHALL LIKEWISE BE SUBJECT TO THE PROVISIONS UNDER*
6 *TITLE V, PART 1 OF THIS CODE, AS AMENDED."*

7 **SEC. 34.** A new section, to be known as Section 2006 is hereby inserted in the Tariff and
8 Customs Code of the Philippines, as amended, to read as follows:

9 *"SEC. 2006. PRIOR APPROVAL OF THE BOARD OF INVESTMENT -*
10 *NOTWITHSTANDING THE PROVISIONS CONTAINED IN SECTION 1901 TO*
11 *1909 AS WELL AS SECTION 2001 TO 2006, ALL CUSTOMS BONDED*
12 *WAREHOUSE SHALL BE MANUFACTURING AND INDUSTRY SPECIFIC.*
13 *THE BUREAU OF CUSTOMS SHALL SO DESIGNATE THE SAME ONLY*
14 *UPON THE PROPER RECOMMENDATION AND ENDORSEMENT BY THE*
15 *BOARD OF INVESTMENT: PROVIDED, FURTHER, THAT BEFORE THE*
16 *BOARD OF INVESTMENT ISSUES THE CORRESPONDING*
17 *RECOMMENDATION AND ENDORSEMENT, THE LOCAL INDUSTRY*
18 *CONCERNED SHALL BE PROPERLY CONSULTED: PROVIDED, FINALLY,*
19 *THAT FAILURE TO COMPLY WITH THE FOREGOING PROVISION SHALL*
20 *CAUSE THE CANCELLATION OF THE ACCREDITATION OF THE SAID*
21 *CUSTOMS BONDED WAREHOUSE."*

22 **SEC. 35.** A new section to be known as Section 2007 is hereby inserted in the Tariff and
23 Customs Code of the Philippines, as amended, to read as follows:

24 *"SEC. 2007. BUREAU OF CUSTOMS AND BUREAU OF INTERNAL*
25 *REVENUE DIRECT RECORD LINKAGE. - TO ASSURE THE PROPER*

1 COORDINATION OF THEIR RESPECTIVE AUDIT AS WELL AS IN THE
2 INVESTIGATION AND PROSECUTION OF TAX AND DUTY RELATED
3 CASES, A REAL-TIME LINKAGE VIA COMPUTER OF THE RECORDS OF
4 BOTH THE BUREAU OF CUSTOMS AND THE BUREAU OF INTERNAL
5 REVENUE SHALL BE IMMEDIATELY MADE."

6 **SEC. 36.** Section 2317 of the Tariff and Customs Code of the Philippines, as amended,
7 is hereby further amended to read as follows:

8 "SEC. 2317. *Government's Right of Compulsory Acquisition.* - In order to
9 protect the government revenues against the undervaluation of goods subject to
10 *ad valorem* duty, the Commissioner of Customs may acquire imported goods
11 under question for a price equal to their declared customs value plus any duties
12 already paid on the goods, payment for which shall be made within ten (10)
13 working days from issuance of a warrant signed by the Commissioner of
14 Customs for the acquisition of such goods.

15 "ANY INDUSTRY ASSOCIATION OR INDUSTRY SECTOR MAY
16 LIKEWISE POST A LETTER OF CREDIT, SURETY BOND OR SOME OTHER
17 APPROPRIATE INSTRUMENT IN FAVOR OF THE BUREAU OF CUSTOMS IN
18 THE AMOUNT EQUAL TO TWO HUNDRED PERCENT (200%) OF THE
19 DECLARED CUSTOMS VALUE OF THE GOODS UNDER QUESTION, PLUS
20 ANY DUTIES, TAXES, FEES OR OTHER CHARGES WHICH HAVE ALREADY
21 BEEN PAID THEREON, IN WHICH CASE THE COMMISSIONER OF
22 CUSTOMS SHALL ACQUIRE SUCH IMPORTED GOODS, PAYMENT FOR
23 WHICH SHALL BE MADE WITHIN TEN (10) WORKING DAYS FROM THE
24 ISSUANCE OF A WARRANT SIGNED BY THE COMMISSIONER OF
25 CUSTOMS FOR THE ACQUISITION OF SUCH GOODS: PROVIDED, THAT

1 THE PROVISIONS OF SECTION 201 OF THIS CODE SHALL APPLY IN THE
2 CASE OF SURETY BONDS AND SURETY COMPANIES.

3 "An importer who is dissatisfied with a decision of the Commissioner of
4 Customs pertaining to this section may, within twenty (20) working days after
5 the date on which notice of the decision is given, appeal to the Secretary of
6 Finance and thereafter if still dissatisfied, to the Court of Tax Appeals as
7 provided for in Section 2402 of the Tariff and Customs Code of the Philippines,
8 as amended.

9 "Where no appeal is made by the importer, or upon reaffirmation of the
10 Commissioner's decision during the appeals process, the Bureau of Customs or
11 its agent shall sell the acquired goods pursuant to existing laws and regulations.

12 IN CASES WHERE COMPULSORY ACQUISITION WAS INITIATED BY THE
13 INDUSTRY ASSOCIATION OR INDUSTRY SECTOR, THE COMMISSIONER
14 SHALL CLAIM ON THE LETTER OF CREDIT, SURETY BOND OR
15 WHATEVER INSTRUMENT POSTED OR USED FOR THE PURPOSE AND
16 THEREUPON RELEASE THE ACQUIRED ARTICLES TO THE INDUSTRY
17 ASSOCIATION OR INDUSTRY SECTOR WHICH POSTED THE
18 INSTRUMENT.

19 "Nothing in this Section limits or affects any other powers of the Bureau of
20 Customs with respect to the disposition of the goods or any liability of the
21 importer or any other person with respect to an offense committed in the
22 importation of the goods."

23 **SEC. 37.** A new section to be known as Section 2401 is hereby inserted in the Tariff and
24 Customs Code of the Philippines, as amended, to read as follows:

1 "SEC. 2401. *Supervision and Control Over Criminal and Civil Proceedings.* - Civil
2 and criminal actions and proceedings instituted in behalf of the government
3 under the authority of this Code or other law enforced by the Bureau shall be
4 brought in the name of the government [of the Philippines] and shall be
5 [conducted] INVESTIGATED, PROSECUTED AND HANDLED EXCLUSIVELY
6 by [customs officers] LAWYERS OF THE BUREAU OF CUSTOMS, [but] AND
7 no civil or criminal action for the recovery of duties or the enforcement of any
8 fine, penalty or forfeiture under this Code shall be filed in court without the
9 approval of the Commissioner. FOR THIS PURPOSE, THE BUREAU OF
10 CUSTOMS SHALL BE PRIMARILY AND EXCLUSIVELY RESPONSIBLE FOR
11 THE CONDUCT OF PRELIMINARY INVESTIGATION AND PROSECUTION
12 OF CUSTOMS-RELATED CASES, AS WELL AS THE PROSECUTION AND
13 DEFENSE OF CUSTOMS-RELATED CIVIL CASES, TO THE EXCLUSION OF
14 ALL OTHER GOVERNMENT AGENCIES INVOLVED THEREIN. THE
15 BUREAU OF CUSTOMS SHALL HAVE EXCLUSIVE AUTHORITY TO FILE
16 ANY CRIMINAL OR CIVIL CASE DIRECTLY WITH THE PROPER COURT
17 FOR PROSECUTION OF VIOLATORS OF THE TARIFF AND CUSTOMS
18 CODE, AND THE COLLECTION, RECOVERY OR ENFORCEMENT OF ANY
19 FINE, PENALTY OR FORFEITURE UNDER THE CODE."

20 **SEC. 38.** Section 2503 of the Tariff and Customs Code of the Philippines, as amended,
21 is hereby further amended to read as follows:

22 "SEC. 2503. *Undervaluation, Misclassification and Misdeclaration in Entry.* -
23 When the dutiable value of the imported articles shall be so declared and entered
24 that the duties, based on the declaration of the importer on the face of the entry
25 would be less by ten percent (10%) than should be legally collected, or when the

1 imported articles shall be so described and entered that the duties based on the
2 importer's description on the face of the entry would be less by ten percent (10%)
3 than should be legally collected based on the tariff classification, or when the
4 dutiable weight, measurement or quantity of imported articles is found upon
5 examination to exceed by ten percent (10%) or more than the entered weight,
6 measurement or quantity, a surcharge shall be collected from the importer in an
7 amount of not less than the difference between the full duty and the estimated
8 duty based upon the declaration of the importer, nor more than twice of such
9 difference: *Provided*, That an undervaluation, MISCLASSIFICATION,
10 misdeclaration in weight, measurement or quantity of more than thirty percent
11 (30%) between the value, weight, measurement or quantity declared in the entry,
12 and the actual value, weight, quantity, or measurement shall constitute a *prima*
13 *facie* evidence of fraud penalized under Section 2530 AND SECTION 3602 of this
14 Code: *Provided*, *further*, That any UNDERVALUED, misdeclared,
15 MISCLASSIFIED or undeclared imported articles/items found, upon
16 examination shall *ipso facto* be forfeited in favor of the Government to be
17 disposed of pursuant to the provisions of this Code: *PROVIDED*,
18 *FURTHERMORE*, THAT THE LICENSE, PERMIT AND THE BUSINESS NAME
19 OF THE SUBJECT IMPORTER MAY BE REVOKED AFTER DUE PROCESS.

20 "When the undervaluation, misdescription, misclassification or
21 misdeclaration in the import entry is intentional, the importer shall be subject to
22 penal provisions under Section 3602 of this Code."

23 **SEC. 39.** A new section to be known as Section 2503-A is hereby inserted in Part 4,
24 Title VI, Book II of the Tariff and Customs Code of the Philippines, as amended, to read
25 as follows:

1 "SEC. 2503-A. *NON-IMPOSITION OF SURCHARGE.* - EXEMPTION
2 FROM THE SURCHARGE SHALL BE ALLOWED ONLY IN CASES WHEN
3 THE DECLARED OR ENTERED CLASSIFICATION IS BASED ON RULINGS
4 BY THE TARIFF COMMISSION AND THE BUREAU OF CUSTOMS AS
5 APPROVED BY THE DEPARTMENT OF FINANCE PURSUANT TO
6 SUBSECTION (A) OF SECTION 1313 OF THIS CODE: *PROVIDED*, THAT THE
7 DESCRIPTION OF THE ARTICLE IS FOUND CORRECT UPON
8 EXAMINATION: *PROVIDED, FINALLY*, THAT BASED ON THE RESULT OF
9 THE EXAMINATION, THE ARTICLE IS FOUND ESSENTIALLY THE SAME
10 AS THAT DESCRIBED IN THE RULING."

11 **SEC. 40.** Section 2601 of the Tariff and Customs Code of the Philippines, as amended,
12 is hereby further amended to read as follows:

13 "SEC. 2601. *Property Subject to [Sale] DISPOSITION.* - Property in customs
14 custody shall be subject to [sale] DISPOSITION under the conditions hereinafter
15 provided:

16 "a. Abandoned articles;

17 "b. Articles entered under warehousing entry not withdrawn nor the duties
18 and taxes paid thereon within the period prescribed under Sections 1908 of this
19 Code;

20 "c. Seized property, other than contraband, after liability to sale shall have
21 been established by proper administrative [or judicial] proceedings in
22 conformity with the provision of this Code; and

23 "d. Any article subject to a valid lien for customs duties, taxes or other
24 charges collectible by the Bureau of Customs, after the expiration of the period
25 allowed for the satisfaction of the same."

1 **SEC. 41.** Section 2602 of the Tariff and Customs Code of the Philippines, as amended,
2 is hereby further amended to read as follows:

3 "SEC. 2602. [*Place of Sale or Other Disposition of Property*] *MODES OF*
4 *DISPOSITION OF PROPERTY UNDER CUSTOMS CUSTODY.* - Property
5 within the purview of this part of this Code shall be [sold, or otherwise disposed
6 of, upon the order of the Collector of the port where the property is found,
7 unless the Commissioner shall direct its conveyance for such purpose to some
8 other port.] *DISPOSED OF THROUGH THE FOLLOWING MODES OF*
9 *DISPOSITION:*

10 "(A) WHEN SUBJECT PROPERTY HAS EXPORT POTENTIAL, THE SAME
11 SHALL BE EXPORTED THROUGH A GOVERNMENT ENTITY WHICH
12 SHALL BE DESIGNATED TO PERFORM SAID TASK;

13 "(B) WHEN THE PROPERTY IS NOT EXPORTED, AND UPON
14 RECOMMENDATION OF THE COMMISSIONER OF CUSTOMS, THE
15 SECRETARY OF FINANCE MAY AUTHORIZE THE OFFICIAL USE OF THE
16 ARTICLES TO PROMOTE THE INTENSIVE COLLECTION OF TAXES
17 AND/OR TO HELP PREVENT OR SUPPRESS SMUGGLING AND OTHER
18 FRAUDS UPON THE CUSTOMS;

19 "(C) WHEN THE ARTICLE IS NOT SUITABLE FOR EXPORTATION OR
20 FOR USE AGAINST SMUGGLING OR OTHER FRAUDS UPON CUSTOMS,
21 THEN IT MAY BE CHanneled TO THE OFFICIAL USE OF OTHER OFFICES
22 OF THE NATIONAL GOVERNMENT; AND

23 "(D) IF THE ARTICLE IS SUITABLE FOR SHELTER OR CONSISTS OF
24 FOODSTUFFS OR CLOTHING MATERIALS, THEN THAT ARTICLE MAY BE
25 GIVEN TO THE APPROPRIATE GOVERNMENT AGENCY: *PROVIDED,*

1 THAT THIS AGENCY USES THIS ONLY FOR OFFICIAL PURPOSE , OR FOR
2 CHARITY.

3 "THE COST OF EXPORTATION OF SUBJECT PROPERTY UNDER THIS
4 SECTION, INCLUDING ALL ATTENDANT COSTS THERETO, SHALL BE
5 SHOULDERED BY THE IMPORTER/CONSIGNEE WHO UNLAWFULLY
6 BROUGHT IN THE IMPORTED ARTICLE, AND/OR THE BROKER THEREOF,
7 AS THE CASE MAY BE; WHEN BOTH THE IMPORTER/CONSIGNEE WHO
8 UNLAWFULLY BROUGHT IN THE IMPORTED ARTICLE AND THE BROKER
9 CAN NOT BE LOCATED THEN THE GOVERNMENT ENTITY WHICH IS
10 DESIGNATED TO EXPORT SUBJECT PROPERTY SHALL SHOULDER THE
11 COST OF EXPORTATION: *PROVIDED*, THAT ARTICLES TO BE EXPORTED
12 UNDER THIS SECTION SHALL BE TRANSFERRED BY THE BUREAU OF
13 CUSTOMS TO THE GOVERNMENT ENTITY THAT IS MANDATED TO
14 EXPORT THE ARTICLES WITHIN FIFTEEN (15) DAYS FROM THE TIME THE
15 FORFEITURE HAS BECOME FINAL AND EXECUTORY: *PROVIDED*,
16 *FURTHER*, THAT ARTICLES THAT ARE CHANNELED OR AUTHORIZED
17 FOR OFFICIAL USE OR FOR CHARITABLE PURPOSES BY GOVERNMENT
18 ENTITIES SHALL NOT BE SOLD NOR EXCHANGED IN ANY MANNER
19 WHATSOEVER FOR OTHER ARTICLES: *PROVIDED, FURTHERMORE*, THAT
20 THE COST OF HANDLING, STORAGE, TRANSPORTATION AND OTHER
21 CHARGES INCIDENTAL TO THE UPKEEP AND TRANSPORTATION OF
22 SUBJECT ARTICLE SHALL BE BORNE BY THE RECIPIENT GOVERNMENT
23 AGENCY: *PROVIDED, FINALLY*, THAT IF SUBJECT ARTICLE CANNOT BE
24 EXPORTED THROUGH THE GOVERNMENT ENTITY DESIGNATED FOR
25 THE PURPOSE OR IS NOT SUITABLE EITHER FOR OFFICIAL USE OR

1 CHARITY, THE SAME SHALL BE BURNED OR DESTROYED IN SUCH
2 MANNER AS THE CASE MAY REQUIRE AS TO RENDER THEM
3 ABSOLUTELY WORTHLESS, IN THE PRESENCE OF A REPRESENTATIVE
4 EACH FROM THE COMMISSION ON AUDIT, THE DEPARTMENT OF
5 JUSTICE, THE BUREAU OF CUSTOMS, AND FROM THE PRIVATE SECTOR."

6 **SEC. 42.** Section 2603 of the Tariff and Customs Code of the Philippines, as amended,
7 is hereby further amended to read as follows:

8 "SEC. 2603. [*Mode of Sale*] DISPOSITION OF PROCEEDS IN CASE OF
9 EXPORTATION. - [In the absence of any special provision, subject to the
10 provisions of Section 2601 above provided, property subject to sale by the
11 customs authorities shall be sold at public auction within thirty (30) days after
12 ten (10) days notice of such sale shall have been conspicuously posted at the port
13 and such other advertisement as may appear to the Collector to be advisable in
14 the particular case.] THE FOLLOWING CHARGES SHALL BE PAID FROM
15 THE PROCEEDS OF THE EXPORTATION OF ARTICLES WITHIN THE
16 PURVIEW OF THIS PART OF THIS CODE:

17 "(A) EXPORTATION EXPENSES INCURRED BY THE GOVERNMENT
18 ENTITY DESIGNATED FOR THE PURPOSE;

19 "(B) TAXES AND OTHER CHARGES, AS THE CASE MAY BE, DUE THE
20 GOVERNMENT;

21 "(C) STORAGE CHARGES;

22 "(D) ARRASTRE CHARGES; AND

23 "(E) FREIGHT, LIGHTERAGE AND OTHER EXPENSES INCIDENTAL TO
24 THE EXPORTATION."

1 **SEC. 43.** Section 2604 of the Tariff and Customs Code of the Philippines, as
2 amended, is hereby further amended to read as follows:

3 “SEC. 2604. *[Disqualification to Participate in Auction Sale]* DISPOSITION OF
4 SURPLUS FROM THE PROCEEDS OF EXPORTATION OF PROPERTY WITHIN
5 THE PURVIEW OF THIS PART OF THIS CODE. – [No customs official or
6 employee shall be allowed to bid directly or indirectly, in any customs auction.]
7 ANY SURPLUS REMAINING AFTER THE SATISFACTION OF ALL LAWFUL
8 CHARGES AS PROVIDED FOR IN SECTION 2603 OF THIS CODE SHALL BE
9 DEPOSITED IN A SPECIAL TRUST FUND WHICH SHALL BE USED SOLELY
10 FOR THE PURPOSE OF FINANCING THE COMPULSORY ACQUISITION OF
11 IMPORTED GOODS BY THE GOVERNMENT AS PROVIDED FOR IN
12 SECTION 2317 OF THIS CODE.”

13 **SEC. 44.** Section 2607 of the Tariff and Customs Code of the Philippines, as amended,
14 is hereby further amended to read as follows:

15 “SEC. 2607. *Disposition of Articles Liable to Deterioration.* – Perishable articles
16 shall be deposited in any appropriate bonded warehouse; and, if not
17 immediately entered for export or for transportation from the vessel or aircraft in
18 which imported or entered for consumption and the duties and the taxes paid
19 thereon, such articles SHALL [may] be sold at auction [after such public notice,
20 not exceeding three days,] as the necessities of the case permit.

21 “When seizure shall be made of property which, in the opinion of the
22 Collector, is liable to perish or be wasted or to depreciate greatly in value by
23 keeping, or which cannot be kept without great disproportionate expense,
24 whether such property consists of live animals or of any article, the appraiser

1 shall so certify his appraisal, the Collector SHALL [may] proceed to advertise
2 and sell the same at auction, upon notice as he shall deem to be reasonable.

3 "The same disposition SHALL [may] be made of any warehoused article
4 when in the opinion of the Collector it is likely that the cost of depreciation,
5 damage, leakage or other causes, may so reduce its value as to be insufficient to
6 pay the duties, taxes and other charges thereon, if it should be permitted to be so
7 kept and be subjected to sale in the usual course.

8 "PROVIDED, THAT IN ALL CASES INVOLVING ARTICLES LIABLE TO
9 DETERIORATION, THE DETERMINATION THEREON SHALL BE
10 EXCLUSIVE TO THE COLLECTOR AND SHALL BE FINAL ON THE MATTER:
11 PROVIDED, FURTHER, THAT THE AUCTION SALE SHALL BE HELD NOT
12 LATER THAN TWO (2) DAYS AFTER THE PUBLIC NOTICE SET BY THE
13 COLLECTOR."

14 **SEC. 45.** Section 2610 of the Tariff and Customs Code of the Philippines, as amended,
15 is hereby further amended to read as follows:

16 "SEC. 2610. *Disposition of Unsold Articles for Want of Bidders.* - Articles subject
17 to sale at public auction by customs authorities shall be sold at a price not less
18 than the wholesale value price in the domestic market of these or similar articles
19 in the usual wholesale quantities and in the ordinary course of trade as
20 determined in accordance with section twenty-three hundred and five of this
21 code.

22 "When any article remains unsold in at least two public biddings for want of
23 bidders or for lack of an acceptable bid, and the article is perishable and/or
24 suitable for official use, then the Collector shall report the matter immediately to
25 the Commissioner of Customs who SHALL [may, subject to the approval of the

1 Secretary of Finance,] authorize the official use of that article by the Bureau of
2 Customs to promote the intensive collection of taxes and/or to help prevent or
3 suppress smuggling and other frauds upon the Customs, and if the article is not
4 suitable for such use, then it may be channeled to the official use of other offices
5 of the National Government AS THE COMMISSIONER OF CUSTOMS MAY
6 DETERMINE. If the article is suitable for shelter or consists of foodstuffs,
7 clothing materials or medicines then that article shall be given to government
8 charitable institutions through the Department of Social WELFARE [Services]
9 and Development. AGRICULTURAL PRODUCTS SHALL BE GIVEN TO THE
10 DEPARTMENT OF AGRICULTURE FOR PROPER DISPOSITION.

11 "If the article offered for sale is not suitable either for official use or charity,
12 then the same may be re-exported as government property, through the
13 Department of Trade AND INDUSTRY or any other government entity through
14 barter or sale. If the article cannot be disposed of as provided above, the
15 Collector shall report the matter immediately to the Commissioner who SHALL
16 [may, subject to the approval of the Secretary of Finance] dispose of the article to
17 the best advantage of the government in a negotiated private sale which shall be
18 consummated in the presence of a representative of the Commission of Audit, in
19 the manner provide for by this Code."

20 **SEC. 46.** Section 2612 of the Tariff and Customs Code of the Philippines, as amended,
21 is hereby further amended to read as follows:

22 "SEC. 2612. *Disposition of Smuggled Articles.* -

23 "Smuggled articles, after liability to seizure or forfeiture shall have been
24 established by proper administrative [or judicial] proceedings in conformity
25 with the provisions of this Code, shall be disposed of as provided for in section

1 twenty-six hundred and ten: *PROVIDED*, THAT SENSITIVE ARTICLES SO
2 CONSIDERED BY THE PHILIPPINES UNDER LAWS, REGULATIONS OR
3 EXISTING INTERNATIONAL AGREEMENTS SHALL BE DISPOSED
4 ACCORDING TO THE RECOMMENDATIONS, RULES OR ORDERS SET BY
5 THE APPROPRIATE REGULATORY AGENCY: *Provided*, *FURTHER*, That
6 articles whose importation is prohibited under Section One hundred two sub-
7 paragraphs b, c, d, e and j shall upon order to the Collector in writing, be burned
8 or destroyed, in such manner as the case may require as to render them
9 absolutely worthless, in the presence of a representative each from the
10 Commission on Audit, [Ministry] DEPARTMENT of Justice, Bureau of Customs,
11 and if possible, any representative of the private sector."

12 **SEC. 47.** Section 3513, Book II, Title VII, Part II of the Tariff and Customs Code of
13 the Philippines, is hereby amended to read as follows:

14 "SEC. 3513. *Reward to Persons Instrumental in the Discovery and Seizure of or*
15 *Recovery of Revenue on Smuggled Goods and Successful Prosecution of Offenders. -*
16 The provisions of general and special laws to the contrary notwithstanding, a
17 cash reward equivalent to twenty per centum (20%) of the [fair market value of]
18 REVENUE RECOVERED FROM the [smuggled and] SEIZED OR confiscated
19 goods shall be given to the officers and men and informers who are instrumental
20 in the discovery and seizure of such goods [in accordance with the rules and
21 regulations to be issued by the Secretary of Finance.]: *PROVIDED*, THAT IN
22 CASE OF SUCCESSFUL PROSECUTION OF SMUGGLERS OR SEIZURE AND
23 FORFEITURE CASES, THE AMOUNT EQUIVALENT TO TEN PER CENTUM
24 (10%) THEREOF SHALL BE GIVEN TO BUREAU OF CUSTOMS LAWYER/S
25 WHO ACTIVELY PROSECUTED THE CASE THAT RESULTED IN THE

1 RECOVERY OF REVENUE, SURCHARGES, AND FEES, OR IMPOSITION OF
2 FINE OR PENALTY OR OFFER OF COMPROMISE BY THE OFFENDER, OR
3 CONVICTION OF THE OFFENDER: *PROVIDED, FURTHER*, THAT IN CASE
4 OF CONVICTION, WHERE THE PENALTY IS INCAPABLE OF PECUNIARY
5 ESTIMATION, THE AMOUNT OF REWARD SHALL BE EQUIVALENT TO
6 TWENTY PER CENTUM (20%) OF THE CIVIL LIABILITY INCLUDING FINES,
7 PENALTIES AND SURCHARGES IMPOSED BY THE COURT: *PROVIDED,*
8 *FINALLY*, THAT WHERE NO CIVIL LIABILITY IS AWARDED BY THE
9 COURT, THE SUM OF P250,000.00 OR P500,000.00 SHALL BE GRANTED
10 WHERE THE CASE IS RESOLVED WITH FINALITY IN THE TRIAL COURT
11 OR THE APPELLATE COURTS, RESPECTIVELY."

12 **SEC. 48.** Section 3519 of the Tariff and Customs Code of the Philippines, as
13 amended, is hereby further amended to read as follows:

14 "SEC. 3519. *Words and Phrases Defined.* - As used in this Code:

15 "Foreign Port" means a port or place outside the jurisdiction of the
16 Philippines.

17 "FOREIGN TRANSSHIPMENT" SHALL REFER TO THE TRANSPORT OF
18 GOODS FROM A FOREIGN COUNTRY INTO THE PHILIPPINES FOR
19 SHIPMENT TO A FOREIGN DESTINATION WITHOUT INTRODUCING THE
20 SAME INTO THE PHILIPPINE CUSTOMS TERRITORY.

21 "Port of Entry" is a domestic port open to both foreign and coastwise trade.
22 The term includes principal ports of entry and subports of entry. A "principal
23 port of entry" is the chief port of entry of the collection district wherein it is
24 situated and is the permanent station of the Collector of such port. Subports of
25 entry are under the administrative jurisdiction of the Collector of the principal

1 port of entry of the district. Whenever the term "Port of Entry" is used herein, it
2 shall include "airport of entry".

3 "Coastwise ports" are such domestic ports as are open to coastwise trade only.
4 These include all ports, harbors and places not ports of entry.

5 "Vessels" includes every sort of boat, craft or other artificial contrivance used,
6 or capable of being used, as a means of transportation on water.

7 "Aircraft" includes any weight-carrying devise or structure for the navigation
8 of the air.

9 "Bill of Lading" includes airway bill of lading.

10 "Articles", when used with reference to importation or exportation, includes
11 goods merchandise and in general anything that may be made the subject of
12 importation or exportation.

13 "Transit cargo" is article arriving at any port from another port or place noted
14 in the carrier's manifest and destined for transshipment to another local port or to
15 a foreign port.

16 "Seized property" means any property seized or held for the satisfaction of
17 any administrative fine or for the enforcement of any forfeiture under the Tariff
18 and Customs Code.

19 "Tariff and customs laws" includes not only the provisions of this Code and
20 regulations pursuant thereto but all other laws and regulations which are subject
21 to enforcement by the Bureau of Customs or otherwise within its jurisdiction.

22 "Taxes" includes all taxes, fees and charges imposed by the Bureau of
23 Customs and the Bureau of Internal Revenue.

24 "Secretary" or "Department Head" refers, unless otherwise specified, to the
25 Secretary of Finance.

1 "Commission" refers to the Tariff Commission.

2 "Person" whether singular or plural refers to an individual,
3 corporation, partnership, association, company or any other kind of organization.

4 "Dutiable value" refers to the value defined in section two hundred one.

5 "Bulk cargo" refers to products in a mass of one commodity not packaged,
6 bundled, bottled or otherwise packed.

7 "Smuggling" is an act of any person who shall fraudulently import or bring
8 into the Philippines, or assist in so doing, any article, contrary to law or shall
9 receive, conceal, buy, sell or in any manner facilitate the transportation,
10 concealment, or sale of such article after importation, knowing the same to have
11 been imported contrary to law. It includes the exportation of articles in a manner
12 contrary to law. Articles subject to this paragraph shall be known as smuggled
13 articles: *PROVIDED, THAT THE ACT OF RECEIVING ARTICLES THAT ARE*
14 *SUPPOSED TO BE EXPORTED BUT ARE SUBSEQUENTLY RETURNED AND*
15 *REJECTED BY THE IMPORTING COUNTRY SHALL NOT BE CONSIDERED*
16 *SMUGGLING."*

17 "TECHNICAL SMUGGLING" IS AN ACT OF ANY PERSON WHO MAKES
18 OR ATTEMPTS TO MAKE ENTRY OF IMPORTED OR EXPORTED ARTICLE BY
19 MEANS OF ANY FALSE OR FRAUDULENT INVOICE, DECLARATION,
20 AFFIDAVIT, LETTER, PAPER OR BY ANY MEANS OF ANY FALSE
21 STATEMENT, WRITTEN OR VERBAL, OR BY ANY MEANS OF ANY FALSE OR
22 FRAUDULENT PRACTICE WHATSOEVER, OR EFFECTS ANY ENTRY OF
23 GOODS, WARES OR MERCHANDISE, AT LESS THAN THE TRUE WEIGHT OR
24 MEASURES THEREOF OR UPON A FALSE CLASSIFICATION AS TO
25 QUALITY OR VALUE, OR BY THE PAYMENT OF LESS THAN THE AMOUNT

1 LEGALLY DUE, OR FILES ANY FALSE OR FRAUDULENT ENTRY OR CLAIM
2 FOR THE PAYMENT OF DRAWBACK OR REFUND OF DUTIES UPON THE
3 EXPORTATION OF MERCHANDISE, OR MAKES OR FILES ANY AFFIDAVIT,
4 ABSTRACT, RECORD, CERTIFICATE OR OTHER DOCUMENT, WITH A VIEW
5 TO SECURING THE PAYMENT TO HIMSELF OR OTHERS OF ANY
6 DRAWBACK, ALLOWANCE, OR REFUND OF DUTIES ON THE
7 EXPORTATION OF MERCHANDISE, GREATER THAN THAT LEGALLY DUE.
8 THEREON, OR WHO SHALL BE GUILTY OF ANY ACT OF OMISSION SHALL,
9 FOR EACH OFFENSE , BE PUNISHABLE UNDER THIS CODE.”

10 “Contrabands” are articles of prohibited importation or exportation.

11 “Duly Registered” as used in this Act, refers to a person, natural or juridical,
12 which is registered with the proper government agencies, such as the [Bureau of
13 Commerce] DEPARTMENT OF TRADE AND INUSTRY, Securities and
14 Exchange Commission, [NACIDA], Board of Investments, DEPARTMENT OF
15 AGRICULTURE, [Export Incentives Board or Oil Commission] DEPARTMENT
16 OF ENERGY as now or may hereafter be required by law. (RA 9135, April 27,
17 2001)

18 **SEC. 53.** Section 3601 of the Tariff and Customs Code of the Philippines, as amended, is
19 hereby further amended to read as follows:

20 “SEC. 3601. [Unlawful Importation] SMUGGLING. - (A) Any person who
21 shall fraudulently import or bring into the Philippines, or assist in so doing, any
22 article, contrary to law, SHALL BE GUILTY OF SMUGGLING AND SHALL BE
23 PUNISHABLE AS HEREIN PROVIDED, (B) [or] ANY PERSON WHO shall
24 receive, conceal, buy, sell, or in any manner facilitate the transportation,
25 concealment, or sale of such article after importation, knowing the same to have

1 been imported contrary to law, shall be DEEMED guilty of smuggling and shall
2 LIKEWISE be [punished with] PUNISHABLE AS HEREIN PROVIDED, AND
3 (C) ANY IMPORTATION OF ARTICLES THAT DO NOT PASS THROUGH
4 THE PORTS OF ENTRY SHALL BE CONSIDERED AS UNLAWFUL
5 IMPORTATION PUNISHABLE UNDER SECTION 3601 OF THIS CODE,
6 SHALL BE CONSIDERED AS ILLEGALLY IMPORTED AND SHALL BE
7 DISPOSED OF IN THE MANNER AS PROVIDED FOR IN SECTION 2602 OF
8 THIS CODE:

9 "1. A fine [of not less than] IN AN AMOUNT EQUAL TO THE APPRAISED
10 VALUE PLUS fifty [pesos nor more than two hundred pesos] PERCENT (50%)
11 THEREOF and imprisonment of not less than [five] SIX MONTHS AND ONE
12 day[s] nor more than [four years] TWENTY DAYS, if the appraised value, to be
13 determined in the manner prescribed under this Code, including duties and
14 taxes, of the article unlawfully imported EXCEEDS FIVE THOUSAND PESOS
15 (P5,000.00) BUT does not exceed [twenty-five] FIFTY THOUSAND pesos
16 (P50,000.00);

17 "2. A fine [of not less than eight hundred pesos nor more than five thousand
18 pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY
19 PERCENT (50%) THEREOF and imprisonment of not less than [six months]
20 FOUR YEARS and one day nor more than [four] EIGHT years, if the appraised
21 value, to be determined in the manner prescribed under this Code, including
22 duties and taxes, of the article unlawfully imported [exceeds twenty-five] IS
23 MORE THAN FIFTY THOUSAND pesos (P50,000.00) but does not exceed ONE
24 HUNDRED fifty thousand pesos (P150,000.00);

1 "3. A fine [of not less than six thousand pesos nor more than eight thousand
2 pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY
3 PERCENT (50%) THEREOF and imprisonment of not less than [five] EIGHT
4 years and one day nor more than [eight] TWELVE years, if the appraised value,
5 to be determined in the manner prescribed under this Code, including duties
6 and taxes, of the article unlawfully imported [is more than] EXCEEDS ONE
7 HUNDRED fifty thousand pesos (P150,000.00) but does not exceed [one] TWO
8 hundred fifty thousand pesos (P250,000.00);

9 "4. A fine [of not less than eight thousand pesos nor more than ten thousand
10 pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY
11 PERCENT (50%) THEREOF and imprisonment of not less than [eight] TWELVE
12 years and one day nor more than [twelve] FIFTEEN years, if the appraised value,
13 to be determined in the manner prescribed under this Code, including duties
14 and taxes, of the article unlawfully imported exceeds [one] TWO hundred fifty
15 thousand pesos (P250,000.00) BUT DOES NOT EXCEED FIVE HUNDRED
16 THOUSAND PESOS (P500,000.00);

17 "5. A FINE IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS
18 FIFTY PERCENT (50%) THEREOF AND IMPRISONMENT OF NOT LESS
19 THAN FIFTEEN YEARS AND ONE DAY NOR MORE THAN TWENTY
20 YEARS, IF THE APPRAISED VALUE, TO BE DETERMINED IN THE
21 MANNER PRESCRIBED UNDER THIS CODE, INCLUDING DUTIES AND
22 TAXES, OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS FIVE
23 HUNDRED THOUSAND PESOS (P500,000.00) BUT DOES NOT EXCEED ONE
24 MILLION PESOS (P1,000,000.00);

1 "6. A FINE IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS
2 FIFTY PERCENT (50%) THEREOF AND LIFE IMPRISONMENT, IF THE
3 APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED
4 UNDER THIS CODE, INCLUDING DUTIES AND TAXES, OF THE ARTICLE
5 UNLAWFULLY IMPORTED EXCEEDS ONE MILLION PESOS (P1,000,000.00);

6 "7. The penalty of prision mayor TO *RECLUSION TEMPORAL* shall be
7 imposed when the crime of serious physical injuries shall have been committed
8 and the penalty of *reclusion perpetua* to death shall be imposed when the crime of
9 homicide shall have been committed by reason or on the occasion of the
10 unlawful importation.

11 "In applying the above scale of penalties, if the offender is an alien and the
12 prescribed penalty is not death, he shall be deported after serving the sentence
13 without further proceedings for deportation. If the offender is a government
14 official or employee, the penalty shall be a maximum as hereinabove prescribed
15 and the offender shall suffer an additional penalty of perpetual disqualification
16 from public office, to vote and to participate in any public election. HE SHALL
17 ALSO LOSE ALL THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN
18 THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION
19 AND RETIREMENT BENEFITS.

20 "When, upon trial for violation of this section, the defendant is shown to
21 have had possession of the article in question, possession shall be deemed
22 sufficient evidence to authorize conviction unless the defendant shall explain the
23 possession to the satisfaction of the court: *Provided, however,* That payment of the
24 tax due after apprehension shall not constitute a valid defense in any
25 prosecution under this section."

1 **SEC. 54.** Section 3602 of the Tariff and Customs Code of the Philippines, as amended,
2 is hereby further amended to read as follows:

3 “SEC. 3602. *Various Fraudulent Practices Against Customs Revenue.* - Any
4 person who makes or attempts to make entry of imported or exported article by
5 means of any false or fraudulent invoice, declaration, affidavit, letter, paper or
6 by any means of any false statement, written or verbal, or by any means of any
7 false or fraudulent practice whatsoever, or [knowingly] effects any entry of
8 goods, wares or merchandise, at less than the true weight or measures thereof or
9 upon a false classification as to quality or value, or by the payment of less than
10 the amount legally due, or [knowingly and willfully] files any false or fraudulent
11 entry or claim for the payment of drawback or refund of duties upon the
12 exportation of merchandise, or makes or files any affidavit, abstract, record,
13 certificate or other document, with a view to securing the payment to himself or
14 others of any drawback, allowance, or refund of duties on the exportation of
15 merchandise, greater than that legally due thereon, or who shall be guilty of any
16 [willful] act of omission shall, for each offense, BE GUILTY OF TECHNICAL
17 SMUGGLING AND SHALL be [punished in accordance with the penalties
18 prescribed in the preceding section] PUNISHABLE AS FOLLOWS:

19 “1. A FINE OF NOT LESS THAN THREE HUNDRED THOUSAND PESOS
20 (P300,000.00) NOR MORE THAN FIVE HUNDRED THOUSAND PESOS
21 (P500,000.00) AND IMPRISONMENT OF *PRISION CORRECCIONAL*, IF THE
22 DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT OR
23 QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL
24 VALUE, WEIGHT, QUANTITY OR MEASUREMENT OF THE ARTICLE

1 UNLAWFULLY IMPORTED DOES NOT EXCEED ONE HUNDRED
2 THOUSAND PESOS (P100,000.00);

3 "2. A FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS
4 (P500,000.00) NOR MORE THAN EIGHT HUNDRED THOUSAND PESOS
5 (P800,000.00) AND IMPRISONMENT OF *PRISION MAYOR*, IF THE
6 DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT OR
7 QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL
8 VALUE, WEIGHT, QUANTITY OR MEASUREMENT OF THE ARTICLE
9 UNLAWFULLY IMPORTED EXCEEDS ONE HUNDRED THOUSAND PESOS
10 (P100,000.00) BUT DOES NOT EXCEED ONE MILLION PESOS (P1,000,000.00);

11 "3. A FINE OF NOT LESS THAN EIGHT HUNDRED THOUSAND PESOS
12 (P800,000.00) NOR MORE THAN ONE MILLION PESOS (P1,000,000.00) AND
13 IMPRISONMENT OF *RECLUSION TEMPORAL*, IF THE DIFFERENCE
14 BETWEEN THE VALUE, WEIGHT, MEASUREMENT OR QUANTITY
15 DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE,
16 WEIGHT, QUANTITY OR MEASUREMENT OF THE ARTICLE UNLAWFULLY
17 IMPORTED EXCEEDS ONE MILLION PESOS (P1,000,000.00) BUT DOES NOT
18 EXCEED FIVE MILLION PESOS (P5,000,000.00);

19 "4. A FINE OF NOT LESS THAN ONE MILLION PESOS (P1,000,000.00)
20 NOR MORE THAN TWO MILLION PESOS (P2,000,000.00), AND
21 IMPRISONMENT OF *RECLUSION PERPETUA*, IF THE DIFFERENCE
22 BETWEEN THE VALUE, WEIGHT, MEASUREMENT OR QUANTITY
23 DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE,
24 WEIGHT, QUANTITY OR MEASUREMENT OF THE ARTICLE UNLAWFULLY
25 IMPORTED EXCEEDS FIVE MILLION PESOS (P5,000,000.00).

1 "IN APPLYING THE ABOVE SCALE OF PENALTIES, IF THE OFFENDER
2 IS AN ALIEN, HE SHALL BE DEPORTED AFTER SERVING THE SENTENCE
3 WITHOUT FURTHER PROCEEDINGS FOR DEPORTATION. IF THE
4 OFFENDER IS A GOVERNMENT OFFICIAL OR EMPLOYEE, THE PENALTY
5 IN ITS MAXIMUM PERIOD SHALL BE IMPOSED IN ADDITION TO THE
6 PENALTY OF PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE, TO
7 VOTE AND TO PARTICIPATE IN ANY PUBLIC ELECTION. IF THE
8 OFFENDER FAILS TO PAY THE FINE, HE SHALL SUFFER SUBSIDIARY
9 IMPRISONMENT. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM AS
10 A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE
11 FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS."

12 **SEC. 55.** Section 3603 of the Tariff and Customs Code of the Philippines, as amended,
13 is hereby further amended to read as follows:

14 "SEC. 3603. *Failure to Report Fraud.* - Any master, pilot in command or other
15 officer, owner or agent of any vessel or aircraft trading with or within the
16 Philippines and any employee of the Bureau of Customs who, having
17 cognizance of any fraud on the customs revenue, shall fail to report all
18 information relative thereto to the Collector as by law required, shall be
19 punished by a fine of not [more] LESS than [five] ONE HUNDRED thousand
20 pesos (P100,000.00) BUT NOT MORE THAN ONE MILLION PESOS
21 (P1,000,000.00) and imprisonment [for] OF not [more] LESS than [one] EIGHT
22 yearS BUT NOT MORE THAN TWELVE YEARS. If the offender is an alien, he
23 shall be deported after serving the sentence. If the offender is a public official or
24 employee, he shall suffer additional penalty of perpetual disqualification to hold
25 public office, to vote and to participate in any election. HE SHALL ALSO LOSE

1 ALL THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN THE
2 GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND
3 RETIREMENT BENEFITS."

4 **SEC. 56.** Section 3604 of the Tariff and Customs Code of the Philippines, as
5 amended, is hereby further amended to read as follows:

6 "SEC. 3604. *Statutory Offenses of Officials and Employees.* - Every official, agent
7 or employee of the Bureau or any agency of the government charged with the
8 enforcement of the provisions of this Code, who is guilty of any delinquency
9 herein below indicated shall be punished with a fine of not less than [five] ONE
10 HUNDRED thousand pesos (P100,000.00) [nor] BUT NOT more than [Fifty
11 thousand] ONE MILLION pesos (P1,000,000.00) and imprisonment [for] OF not
12 less than [one] EIGHT yearS [nor] BUT NOT more than [ten] TWELVE years and
13 perpetual disqualification to hold public office, to vote and to participate in any
14 public office election. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM
15 AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE
16 FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS:

17 "(a) Those guilty of extortion or willful oppression under color of law;

18 "(b) Those who knowingly demand other or greater sums than are
19 authorized by law or receive any fee, compensation, or reward except as by law
20 prescribed, for the performance of any duty;

21 "(c) Those who willfully neglect to give receipts, as required by law for any
22 sum collection in the performance of duty, or who willfully neglect to perform
23 any of the duties enjoined by law;

24 "(d) Those who conspire or collude with another or others to defraud the
25 customs revenue or otherwise violate the law;

1 “(e) Those who willfully make opportunity for any person to defraud the
2 customs revenue or who do or fail to do any act with intent to enable any person
3 to defraud said revenue;

4 “(f) Those who negligently or designedly permit the violation of the law by
5 any other person;

6 “(g) Those who make or sign any false entry or entries in any book, or make
7 or sign any false certificate or return in any case where the law requires the
8 making by them of such entry, certificate or return;

9 “(h) Those who, having knowledge or information of a violation of the Tariff
10 and Customs Law or any fraud committed on the revenue collectible by the
11 Bureau, fail to report such knowledge or information to their superior official or
12 to report as otherwise required by law;

13 “(i) Those who, without the authority of law, demand or accept or attempt to
14 collect directly or indirectly as payment of otherwise, any sum of money or other
15 thing of value for the compromise, adjustment, or settlement of any charge or
16 complaint for any violation or alleged violation of law; or

17 “(j) Those who, without authority of law, disclose confidential information
18 gained during any investigation or audit, or use such information for personal
19 gain or to the detriment of the government, the Bureau or third parties” (R.A.
20 9135, April 27, 2001)

21 **SEC. 57.** Section 3605 of the Tariff and Customs Code of the Philippines, as
22 amended, is hereby further amended to read as follows:

23 “SEC. 3605. *Concealment or Destruction of Evidence of Fraud.* – Any person who
24 willfully conceals or destroys any invoice, book or paper relating to any article
25 liable to duty after an inspection thereof has been demanded by the Collector of

1 any collection district or at any time conceals or destroys any such invoice, book
2 or paper for the purpose of suppressing any evidence of fraud therein contained,
3 shall be punished with a fine of not [more] LESS than [five] ONE HUNDRED
4 thousand pesos (P100,000.00) BUT NOT MORE THAN ONE MILLION PESOS
5 (P1,000,000.00) and imprisonment [for] OF NOT LESS THAN EIGHT YEARS
6 BUT not more than [two] TWELVE years."

7 **SEC. 58.** Section 3606 of the Tariff and Customs Code of the Philippines, as amended,
8 is hereby further amended to read as follows:

9 "SEC. 3606. *Affixing Seals.* - Any person who, without authority affixes or
10 attaches a customs seal, fastening, or mark or any seal, fastening or mark
11 purporting to be a customs seal, fastening or mark to any vessel, vehicle on land,
12 sea or air, warehouse, or package, shall be punished with a fine of not LESS
13 THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT more
14 than [twenty thousand] ONE MILLION pesos (P1,000,000.00) [or] AND
15 imprisonment of not [more] LESS than [five] EIGHT years[, or both] BUT NOT
16 MORE THAN TWELVE YEARS. If the offender is an alien, he shall be deported
17 after serving the sentence. If he is a public official or employee, he shall suffer an
18 additional penalty of perpetual disqualification to hold public office, to vote and
19 participate in any election. HE SHALL ALSO LOSE ALL THE BENEFITS DUE
20 HIM AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING
21 THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS."

22 **SEC. 59.** Section 3610 of the Tariff and Customs Code of the Philippines, as
23 amended, is hereby further amended to read as follows:

24 "SEC. 3610. *Failure to Keep Importation Records and Give Full Access to Customs*
25 *Officers.* - Any person who fails to keep all the records of importations and/or

1 books of accounts, business and computer systems and all customs commercial
2 data in the manner prescribed in Part 2, Section 3514 of this Title shall be
3 punished with a fine of not less than [One] TWO hundred thousand pesos (P
4 [1]200,000.00) but not more than [Two] FIVE hundred thousand pesos (P
5 [2]500,000.00) and[/or] imprisonment of not less than [two] FOUR ([2]4) years
6 and one day but not more than [six] EIGHT ([6]8) years. This penalty shall
7 likewise be imposed against importers/brokers who deny an authorized
8 customs officer full and free access to such records, books of accounts, business
9 and computer systems, and all customs commercial data including payment
10 records. This is without prejudice to the administrative sanctions that the Bureau
11 of Customs may impose against contumacious importers under existing laws
12 and regulations including the authority to hold delivery or release of their
13 imported articles."

14 **SEC. 60.** Section 3612 of the Tariff and Customs Code of the Philippines, as amended,
15 is hereby further amended to read as follows:

16 *"SEC. 3612. Violations of Tariff and Customs Laws and Regulations in General. -*

17 Any person who violates a provision of this Code or regulations pursuant
18 thereto, for which delinquency no specific penalty is provided, shall be punished
19 by a fine of not LESS THAN TWENTY THOUSAND PESOS (P20,000.00) BUT
20 NOT more than one HUNDRED thousand pesos (P100,000.00) [or] AND by
21 imprisonment for not LESS THAN TWO YEARS AND ONE DAY BUT NOT
22 more than [one] FIVE yearS[, or both]. If the offender is an alien, he shall be
23 deported after serving the sentence and if the offender is a public official or
24 employee, he shall suffer disqualification to hold public office, to vote and
25 participate in any public election for ten years. HE SHALL ALSO LOSE ALL

1 THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN THE
2 GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND
3 RETIREMENT BENEFITS."

4 SEC. 61. A new section to be known as Section 3613 is hereby inserted to the Tariff
5 and Customs Code of the Philippines, as amended, to read as follows:

6 "SEC. 3613. SUMMARY PROCEDURE FOR SEIZURE AND FORFEITURE. -
7 NOTWITHSTANDING THE PROVISIONS OF TITLE VI OF THIS CODE,
8 ARTICLES WHICH ARE FRAUDULENTLY IMPORTED OR BROUGHT INTO
9 THE PHILIPPINES WITHOUT BEING ENTERED THROUGH THE
10 CUSTOMSHOUSE, OR WITHOUT PAYMENT OF THE CORRECT AND
11 APPLICABLE DUTIES, TAXES, FEES AND CHARGES SHALL BE
12 SUMMARILY SEIZED AND FORFEITED IN FAVOR OF THE GOVERNMENT
13 WHEN WARRANTED OR DETERMINED IN THE SEIZURE PROCEEDINGS.
14 SUBJECT TO THE PROVISIONS OF SECTIONS 2530 AND 2531 OF THIS
15 CODE, ANY VESSEL OR AIRCRAFT WHICH IS LEASED TO
16 FRAUDULENTLY BRING IN SAID IMPORTED ARTICLES INTO THE
17 PHILIPPINES SHALL LIKEWISE BE SUBJECT TO SUMMARY SEIZURE AND
18 FORFEITURE.

19 "THE DECISION OF THE SECRETARY OF FINANCE, UPON THE
20 RECOMMENDATION OF THE COMMISSIONER OF CUSTOMS, UNDER THIS
21 SECTION SHALL BE FINAL AND UNAPPEALABLE.

22 "NO COURT, EXCEPT THE COURT OF TAX APPEALS AND THE
23 SUPREME COURT, SHALL ISSUE ANY TEMPORARY RESTRAINING ORDER
24 OR ANY INJUNCTIVE RELIEF AGAINST THE SEIZURE, FORFEITURE OR
25 DISPOSITION OF THE SUBJECT ARTICLES COVERED BY THIS SECTION.

1 "THE OWNER OR OPERATOR OF ANY SEIZED VESSEL OR AIRCRAFT
2 UNDER THIS SECTION SHALL BE BLACKLISTED FROM OPERATING
3 AND/OR FROM ENGAGING IN TRADE IN THE PHILIPPINES."

4 **SEC. 62. *Transitory Provision.*** - All existing customs bonded warehouses
5 established under Section 1901 of the Tariff and Customs Code of the Philippines, as amended,
6 shall have one year from approval of the law to convert themselves to manufacturing customs
7 bonded warehouses under Section 2001 of the Code or register themselves in special economic
8 zones or freeports. After the lapse of the one year period, any importation by these customs
9 bonded warehouses shall be treated as regular importations to be covered by ordinary
10 consumption entries only, unless such customs bonded warehouse in the meantime has
11 transferred to a special economic zone or PEZA zone, which in such case the said importation
12 shall be treated as a PEZA shipment.

13 **SEC. 63. *Separability Clause.*** - If any provision of this Act is subsequently declared
14 unconstitutional, the validity of the remaining provisions hereof shall remain in full force and
15 effect.

16 **SEC. 64. *Rules and Regulations.*** - The Secretary of Finance shall, upon the
17 recommendation of the Commissioner of Customs and meaningful consultation of the local
18 industry, promulgate the necessary rules and regulations for the effective implementation of
19 this Act.

20 **SEC. 65. *Repealing Clause.*** - All laws, decrees, executive orders, rules and
21 regulations and other issuances or parts thereof which are inconsistent with this Act are
22 hereby repealed or modified accordingly.

23 The provision of this Act, not those of Republic Act No. 2338, shall govern the giving of
24 reward cases covered by the former.

1 **SEC. 66. Effectivity.** – This Act shall take effect fifteen (15) days after its publication
2 in any two (2) newspapers of general circulation.

Approved,