

10 JUL -7 P4:13

SENATE

Senate Bill No. 728

RECEIVED BY 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This bill amends certain provisions of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, as amended.

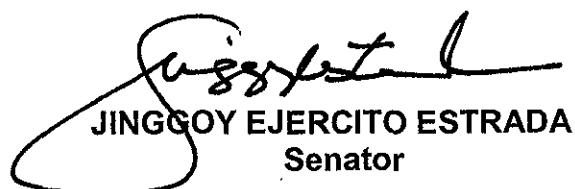
Government transparency is crucial to gain the public's trust, and to bring investors into the country. In trade, this entails availability and accessibility of shipping documents, as well as visibility at all times in the transporting of goods.

Under the proposed bill, an Audit and Transparency Group under the Bureau of Customs, headed by a Deputy Commissioner, would regularly inspect and report on the bureau's operational processes, collection and financial reporting, fiscal and personnel performance, system efficiency, internal control, information and communication flow, fraudulent and illegal practices and other related areas. On the basis of these inspections and reports, the Audit and Transparency Deputy Commissioner can initiate investigations of fraud and other graft and corrupt practices in the bureau, and shall recommend to the Office of the Ombudsman the filing of any cases against personnel and officers involved.

Aside from this, each vessel engaged in foreign trade shall need an electronic copy of its cargo and passenger manifest transmitted to the Bureau of Customs at least six hours prior to the vessel's arrival in the port of entry; for aircraft, the electronic copy must be submitted an hour before arrival.

In addition, a valuation library comprising Customs records shall be made readily available to the public. These, and other amendments, which among others raises penalties, will lift the standards of Customs inspection of port arrivals.

There must be increased vigilance against smuggling, which deprives the government of billions annually, without unnecessarily shunning traders through bureaucratic red tape. This bill strikes a fair balance. In view of the foregoing, immediate approval of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT

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

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

SECTION 1 . Short Title. - This Act shall be known and cited as the
“*Anti-Smuggling Act of 2010.*”

SEC. 2. Section 601 of the Tariff and Customs Code of the Philippines
(TCCP), as amended, is hereby further amended to read as follows:

“SEC. 601. Chief Officials of the Bureau of Customs. - The Bureau of
Customs shall have one chief and FIVE [four] assistance chiefs, to be
known respectively as the Commissioner of Customs (hereinafter known
as the Commissioner) and FIVE (5) Deputy Commissioners of Customs,
each one to head (a) Customs Revenue and Collection Monitoring Group;
(b) Customs Assessment and Operations Coordinating Group; (c)
Intelligence and Enforcement Group; (d) Internal Administration Group;
AND (5) AUDIT AND TRANSPARENCY GROUP, who shall each receive
an annual compensation in accordance with the rates prescribed by
existing law. The Commissioner AND DEPUTY COMMISSIONER FOR
AUDIT AND TRANSPARENCY SHALL BE DIRECTLY APPOINTED BY
THE PRESIDENT.

THE OTHER DEPUTY COMMISSIONERS SHALL BE APPOINTED BY
THE PRESIDENT OF THE PHILIPPINES BASED ON THE
RECOMMENDATION OF THE COMMISSION.

“In case of temporary and permanent vacancy, one of the Deputy
Commissioners shall be designated by the Secretary of Finance to act as
a Commissioner of Customs, until the incumbent Commissioner
reassumes his duties or the position is filled by appointment.”

SEC. 3. Section 607 of the Tariff and Customs Code of the Philippines
(TCCP), as amended, is hereby further amended to read as follow:

“SEC. 607. Annual Report of Commissioner. - The annual report of the
Commissioner to the President shall, among other things, contain a
compilation of the (a) quantity and value of the articles imported into the
Philippines and the corresponding amount of customs duties, taxes and

other charges assessed and collected on imported articles itemized in accordance with the tariff headings and subheadings as appearing in the liquidated customs entries provided for in this Code, (b) percentage collection of the peso value of imports, (c) quantity and value of conditionally-free importations, (d) customs valuation over and above letters of credit opened, (e) quantity and value tax-free imports, and (f) the quantity and value of articles exported from the Philippines as well as the taxes and other charges assessed and collected on them for the preceeding year. THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY SHALL REGULARLY FURNISH [C] copies of such annual report [shall be furnished regularly] to the Department of Finance, Tariff Commission, NEDA, Central Bank of the Philippines, Board of Investments, Department of Budget, and other economic agencies of the government, on or before December 30, of each year.

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

follows:

SEC. 4. Sec. 609 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 609. Commissioner to Furnish Copies of Collectors' Liquidated Duplicates. - The Commissioner shall regularly furnish the NEDA, the Central Bank of the Philippines, the Tariff Commission, AND THE NATIONAL STATISTICS OFFICE (NSO). BOTH ELECTRONIC AND PAPER COPIES of each of all customs import/ export entries as filed with the Bureau of Customs. The Tariff Commission or its duly authorized agents shall have access to and the right to copy all the customs liquidated import entries and other documents appended thereto as finally filed in the Commission on Audit. COPIES OF THE FOREGOING DOCUMENTS SHALL BE MADE ACCESSIBLE AND AVAILABLE TO THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY AT ALL TIMES."

SEC. 5. Section 709 of the TCCP, as amended, is hereby further amended to read as follows:

SEC. 709. Authority of the Collector to Remit Duties. - A Collector shall have discretionary authority to remit the assessment and collection of customs duties, taxes and other charges when the aggregate amount of such duties, fees, taxes, and other charges is less than FIVE THOUSAND PESOS, and he may dispense with the seizure of articles of less than FIVE THOUSAND PESOS in value except in cases of prohibited importations of the habitual or the intentional violation of the tariff and customs laws."

SEC. 6. A new part shall be inserted starting with Section 713, after Section 712 of the TCCP, as amended, which shall read as follows:

"PART 3. -AUDIT, TRANSPARENCY AND ACCOUNTABILITY

"SEC. 713. THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY SHALL CONDUCT, IN COORDINATION WITH THE COMMISSION ON AUDIT, A BUREAU-WIDE AUDIT ON THE OPERATIONAL PROCESSES, COLLECTION AND FINANCIAL

REPORTING, FISCAL AND PERSONNEL PERFORMANCE, SYSTEM EFFICIENCY, INTERNAL CONTROL, INFORMATION AND COMMUNICATION FLOW, FRAUDULENT AND ILLEGAL PRACTICES, AND SUCH OTHER AREAS AS MAY BE NECESSARY FOR THE EFFECTIVE OPERATIONS OF THE BUREAU AND ITS ATTACHED AGENCIES.

"SEC. 714. THE APPROPRIATIONS FOR THE BUREAU OF CUSTOMS SHALL PROVIDE AN ITEM OF EXPENSE FOR AUDIT AS CONTEMPLATED UNDER THIS ACT, INCLUDING A PROVISION FOR AN INDEPENDENT AUDIT OF THE BUREAU BY A QUALIFIED PRIVATE COMPANY OR INSTITUTION, WHICH SHALL BE CONDUCTED ANNUALLY, OR IN SUCH FREQUENCY AS MAY BE DETERMINED BY THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY UPON APPROVAL OF THE COMMISSIONER.

"SEC. 715. ON THE BASIS OF THE AUDIT CONDUCTED PURSUANT TO THE PRECEDING SECTIONS, THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY SHALL HAVE THE AUTHORITY TO FORMULATE AND RECOMMEND POLICIES TO THE COMMISSIONER TO ADDRESS THE IDENTIFIED PROBLEMS AND DEFICIENCIES. UNLESS THERE IS REASONABLE DOUBT ON THE VALIDITY OF THE SAID AUDIT, THE RECOMMENDATIONS SHALL HAVE PERSUASIVE WEIGHT AND SHALL BE PROMPTLY ACTED UPON BY THE COMMISSIONER.

"THE DEPUTY COMMISSIONER SHALL LIKEWISE HAVE THE AUTHORITY TO CONDUCT INVESTIGATIONS FOR THE PURPOSE OF INITIATING PROSECUTION OF FRAUD AND OTHER GRAFT AND CORRUPT PRACTICES IN THE BUREAU, AND SHALL RECOMMEND TO THE OMBUDSMAN THE FILING OF APPROPRIATE CRIMINAL CASES AGAINST THE ERRING PERSONNEL, AND TO THE COMMISSIONER THE IMPOSITION OF ADMINISTRATIVE SANCTIONS.

"SEC. 716. IN THE CONDUCT OF ITS AUDIT AND INVESTIGATIONS, THE DEPUTY COMMISSIONER OF THE PRIVATE AUDITOR SHALL HAVE THE AUTHORITY TO REQUIRE THE PRODUCTION OF DOCUMENTS AND REQUIRE BUREAU PERSONNEL TO RESPOND TO ITS INQUIRIES. FOR THIS PURPOSE, IT MAY ISSUE *SUBPOENA DUCES TECUM* AND *AD TESTIFICANDUM*. ANY PERSON WHO SHALL REFUSE TO ABIDE BY THE *SUBPOENA* SO ISSUED MAY BE HELD LIABLE FOR CONTEMPT.

"SEC. 717. THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER, THE SECRETARY OF FINANCE, THE OFFICE OF THE PRESIDENT, AND THE CONGRESS, STATING THE RESULT OF ITS INSPECTIONS AND AUDITS. THE REPORT SHALL CONTAIN ALL THE NECESSARY DATA WHICH LED TO ITS RECOMMENDATIONS AND FINDINGS. AND SHALL BE MADE AVAILABLE TO THE PUBLIC THROUGH ELECTRONIC AND NON-ELECTRONIC MEANS, UNLESS NON-DISCLOSURE IS WARRANTED BY NATIONAL SECURITY.

SEC. 7. A new section to be known as SECTION 1001-A is hereby inserted after Section 1001 of the TCCP, as amended, which shall read as follows:

"SEC. 1001-A. *TRANSMISSION OF ELECTRONIC COPY OF MANIFEST PRIOR TO ARRIVAL.* - AN ELECTRONIC COPY OF THE CARGO AND PASSENGER MANIFEST OF THE VESSEL, ENGAGED IN FOREIGN TRADE SHALL BE TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST SIX (6) HOURS PRIOR TO THE VESSEL'S ARRIVAL IN THE PORT OF ENTRY, PROVIDED, THAT IF THE VESSEL IS AN AIRCRAFT, THE MANIFEST SHALL BE TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST ONE (1) HOUR PRIOR TO THE AIRCRAFTS ARRIVAL IN THE PORT OF ENTRY."

SEC. 8. Section 1007 of the TCCP, as amended, is hereby further amended to read as follows:

"**SEC. 1007. *Manifest for Commission on Audit and Collector.*** - *Papers to be Deposited with Consul.* - Immediately after the arrival of a vessel from a foreign port, the master shall deliver or mail the Chairman, Commission on Audit, Manila and the DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY, a copy of the cargo manifests properly endorsed by the boarding officer and the master shall immediately present to the Collector the original copy of the cargo manifests properly endorsed by the boarding officer and, for inspection, the ship's register or other documents in lieu thereof, together with the clearance and other papers granted to the vessel at the port of departure for the Philippines."

SEC. 9. Section 1210 of the TCCP, as amended, is hereby further amended to read as follows:

"**SEC. 1210. *Disposition of Imported Articles Remaining on Vessel After Time for Unlading.*** - Imported articles remaining on board any vessel after the expiration of the said period for discharge and not reported for transshipment to another port, may be unladed by customs authorities and stored at the vessel's expense.

"Unless prevented by causes beyond the vessel's control, such as port congestion, strikes, riots, or civil commotions, failure of vessel's gear, bad weather, and similar causes, articles so stored shall be entered within FIFTEEN (15) DAYS, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft and shall be claimed within fifteen (15) days, which shall likewise not be extendible from the date of posting of the notice to claim in conspicuous places in the Bureau of Customs. If no entered or not claimed, it shall be disposed of in accordance with the provisions of this Code."

SEC. 10. A new section to be known as Section 1401-A is hereby inserted after Section 1401 of the TCCP, as amended, which shall read as follows:

SEC. 1401-A. VALUATION LIBRARY. - THE COMMISSION SHALL ENSURE THAT THERE SHALL BE A VALUATION LIBRARY, WHICH SHALL BE KEPT UP TO DATE AND MAINTAINED USING THE BEST AVAILABLE TECHNOLOGY. THE VALUATION LIBRARY SHALL BE MADE READILY AVAILABLE TO THE PUBLIC.

SEC. 11. Section 1403 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1403. Duties of Customs Officer Tasked to Examine, Classify, and Appraise Imported Articles. - The customs officer tasked to examine, classify, and appraise imported articles shall determine whether the packages designated for examination and their contents are in accordance with the declaration in the entry, invoice, and other pertinent documents and shall make a return in such a manner to indicate whether the articles have been truly and correctly declared in the entry as regard their quantity, measurement, weight, and tariff classification and not imported contrary to law. THE CUSTOMS SHALL LIKEWISE CERTIFY UNDER OATH IN THE RETURN THAT HE USED THE VALUATION LIBRARY IN CLASSIFYING AND APPRAISING THE IMPORTED ARTICLES. He shall ALSO submit a sample to the laboratory for analysis when feasible to do so and when such analysis is necessary for the proper classification, appraisal, and/or admission into the Philippines of imported articles."

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

"Failure on the part of the customs officer to comply with his duties shall subject him to the penalties prescribed under 3604 of this Code."

SEC. 12. Section 1801 of the TCCP, as amended, is hereby further amended to read as follows:

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

a. When the owner, importer, consignee of the imported article expressly signifies in writing to the Collector of Customs his intention to abandon:

b. When the owner, importer, consignee, or interested party after due notice, fails to file an entry within thirty 9300 days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft, or having filed such entry, fails to claim his importation within fifteen (15) days, which shall not likewise be extendible, from the date of posting of the notice to claim such importation; OR WHEN THERE IS A WRITTEN DENIAL OF OWNERSHIP FROM THE PERSON INDICATED ON THE MANIFEST OR BILL OF LADING AS THE OWNER, IMPORTER, OR CONSIGNEE OF THE IMPORTED ARTICLE.

"Any person who abandons an article or who fails to claim his importation as provided for in the preceding paragraph shall be deemed to have renounced all his interests and property rights therein."

SEC. 13. Section 1802 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1802. Abandonment of Imported Articles - An abandoned article shall ipso facto be deemed the property of the Government. ALL ABANDONED 10 ARTICLES SHALL BE AUTOMATICALLY SUBJECT TO AUCTION AND SHALL IN NO CASE BE SUBJECT TO SETTLEMENT OR COMPROMISE.

"AN UPDATED LISTING OF ALL ABANDONED SHIPMENTS SCHEDULED FOR AUCTION SHALL BE POSTED ON THE OFFICIAL

WEBSITE OF THE BUREAU OF CUSTOMS AND AT THE MAIN ENTRANCE OF CUSTOMS HOUSES.

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

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

SEC. 14. Section 1901 of the TCCP, as amended, is hereby further amended to read as follows:

SEC. 1901. *Establishment and Supervision of Warehouses.* – When the business of the port requires such facilities, the Collector, subject to the approval of the Commissioner, shall designate and establish INDUSTRY - SPECIFIC warehouses for use as a public and private bonded warehouses, sheds or yards, or for other special purposes.

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

SEC. 15. Section 1902 of the TCCP, as amended, is hereby further amended to read as follows:

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

"The government assumes no legal responsibility in respect to the safekeeping of articles stored in any customs warehouse, sheds, yards, or premises.

"THE OPERATORS OF THE BONDED WAREHOUSES SHALL, FOR LEGITIMATE PURPOSES, MAKE AVAILABLE TO THE PUBLIC AN INVENTORY OF ALL ARTICLES STORED THEREIN. FAILURE TO DO SO IS A MANDATORY GROUND FOR THE REVOCATION OF LICENSE TO OPERATE A BONDED WAREHOUSE."

SEC. 16. Section 1903 of the TCCP, as amended, is hereby further amended to read as follows:

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

"Upon receipt of such application, the Collector shall cause an examination of the premises, with reference particularly to its location, construction and means provided for the safekeeping of articles. THE COLLECTOR SHALL LIKEWISE DETERMINE THE OWNERSHIP OF THE APPLICANT BONDED WAREHOUSE TO VERIFY OWNERS OF A BONDED WAREHOUSE WHICH HAD BEEN CLOSED DUE TO ITS NONCOMPLIANCE WITH CUSTOMS LAWS AND REGULATIONS HAS ANY INTEREST THEREIN. IF THE APPLICATION IS found satisfactory, THE COLLECTOR may authorize its establishment, and accept a bond for its operation and maintenance. The operator of such bonded warehouse shall pay an annual supervision fee in an amount to be fixed by the Commissioner. The bonded warehouse officers and other employees thereof shall be regular customs employees who shall be appointed in accordance with the Civil Service Law, rules and regulations.

"THE PAID-UP CAPITAL AND NET ASSETS OF THE BONDED WAREHOUSE SHALL BE SET AT AN AMOUNT DETERMINED BY THE COMMISSIONER AS SUFFICIENT TO COVER THE VALUE OF GOODS OF UNLIQUIDATED ENTRIES WHICH SHALL BE STORED THEREIN AT ANY GIVEN TIME. OTHERWISE, THE APPLICATION SHALL NOT BE GRANTED, AND AN AUTHORITY ALREADY GRANTED SHALL BE REVOKED.

"THESE REQUIREMENTS SHALL LIKEWISE EXTEND TO REGISTERED LOCATORS OPERATING UNDER THE CHARTERS OF THE PHILIPPINE ECONOMIC ZONE AUTHORITY, THE SUBIC BAY METROPOLITAN AUTHORITY, AND OTHER FREEPORTS AND ECOZONES."

SEC. 17. A new section to be known as SECTION 1903-A is hereby 4 inserted after Section 1903 of the TCCP, as amended, which shall read as follows:

"SEC. 1903-A. REGULAR AUDIT OF BONDED WAREHOUSE. A REGULAR AUDIT OF ALL BONDED WAREHOUSES SHALL BE CONDUCTED BY THE COLLECTOR, WHICH AUDIT SHALL BE SUBJECT TO AUTOMATIC REVIEW BY THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY. UPON PETITION OF AN INTERESTED PARTY, A SECOND AUDIT MAY BE CONDUCTED BY THE DEPUTY COMMISSIONER OR AN INDEPENDENT AUDIT MAY BE MADE UPON THE INSTANCE OF THE PETITIONING PARTY IN COORDINATION WITH THE DEPUTY COMMISSIONER.

SEC. 18. Section 1904 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1904. Irrevocable Domestic Letter of Credit or Bank Guarantee or Warehousing Bond: - After articles declared in the entry for warehousing shall have been examined and the duties, taxes, and other charges shall have been determined, the Collector shall require from the importer an irrevocable domestic letter of credit, bank guarantee, or CASH bond equivalent to the amount of such duties, taxes and other charges conditioned upon the withdrawal of articles within the period prescribed in section nineteen hundred and eight of this Code and for the payment of any duties, taxes and other charges to which the articles shall be then

subject and upon compliance with all legal requirements regarding their importation."

SEC. 19. Section 1905 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1905. *Discontinuance of Warehouses.* - The use of any warehouse may be discontinued by the Collector at any time when conditions so warrant, or in the case of a private warehouse, upon receipt of written request to that effect from the operator thereof of the premises, provided all the requirements of the law and regulations have been complied with by said operator. A LEGITIMATE INDUSTRY GROUP MAY LIKEWISE RECOMMEND TO THE COLLECTOR THE DISCONTINUANCE OF THE BONDED WAREHOUSE ON GROUNDS OF NON-COMPLIANCE WITH THE REQUIREMENTS OF LAW AND REGULATIONS. Where the dutiable article is stored in such premises, the same must be removed at the risk and expense of the operator and the premises shall not be relinquished, nor discontinuance of its use authorized, until a careful examination of the account of the warehouse shall have been made. Discontinuance of any warehouse shall be effective upon official notice and approval thereof by the Collector."

SEC. 20. Section 1906 of the TCCP, as amended, is hereby further amended to read

"SEC. 1906. *Entry of Articles for Warehousing.* - The entry of articles for warehousing shall be in the required number of copies in the prescribed form, and shall be verified as in the entry of the articles for consumption. No warehousing entry shall be accepted for any article if from the entry, supporting documents and/or information such article is imported contrary to any law. THE CUSTOMS OFFICER MAKING THE ENTRY SHALL BE RESPONSIBLE FOR TRANSMITTING A COPY OF THE SAME TO THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY."

SEC. 21. Section 1907 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1907. *Withdrawal of Articles from Bonded Warehouse.* - Articles entered under irrevocable domestic letter of credit, or CASH bond may be withdrawn at any time for re- exportation; *PROVIDED THAT PROOF IS SHOWN THAT THE ORDER TO IMPORT THE SUBJECT ARTICLES HAS BEEN CANCELLED; PROVIDED FURTHER THAT THE ARTICLES TO BE WITHDRAWN DO NOT AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL INVENTORY OF THE BONDED WAREHOUSE.*

"The withdrawal must be made ONLY BY THE IMPORTER OF THE ARTICLES BEING WITHDRAWN OR BY A REPRESENTATIVE whose authority must appear in writing upon the face of the withdrawal entry."

SEC. 22. Section 1908 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 1908. *Limit to Period of Storage in Bonded Warehouse.* Articles duly entered for warehousing may remain in bonded warehouses for a maximum period of THIRTY (30) DAYS from the time of RECEIPT OF

THE WAREHOUSE. Articles not withdrawn at the expiration of the prescribed period shall be DEEMED ABANDONED AND SUBJECT TO DISPOSITION IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE."

SEC. 23. A new section to be known as Section 1908-A is hereby inserted after Section 1908 of the TCCP, as amended, which shall read as follows:

"SEC. 1908-A. *LIQUIDATION OF WAREHOUSING ENTRIES – THE LIQUIDATION OF WAREHOUSING ENTRIES SHALL BE MADE NOT MORE THAN THREE (3) MONTHS FROM THE TIME OF RECEIPT OF THE WAREHOUSE. "A DAILY RECORD OF ALL ENTRIES LIQUIDATED SHALL BE POSTED ON A CONSPICUOUS PLACE IN THE MAIN ENTRANCE OF THE CUSTOMS HOUSE, STATING THE NAME OF THE VESSEL OR AIRCRAFT, THE PORT FROM WHICH SHE ARRIVED, THE DATE OF HER ARRIVAL, THE NAME OF THE IMPORTER, AND THE SERIAL NUMBER AND THE DATE OF ENTRY. THE COLLECTOR MUST ALSO KEEP A DAILY RECORD OF ALL ADDITIONAL DUTIES, TAXES AND OTHER CHARGES FOUND UPON LIQUIDATION, AND NOTICE SHALL PROMPTLY BE SENT TO THE INTERESTED PARTIES."*

SEC. 24. Section 2001 of the TCCP, as amended, is hereby further amended to read as follows:

"**SEC. 2001. *Establishment of Bonded Manufacturing Warehouses.*** - All articles manufactured in whole or in part of imported materials, and intended for exportation without being charged with duty, shall, in order to be so manufactured and exported, be made and manufactured in manufacturing warehouses under such rules and regulations as the Commissioner of Customs with the approval of the Secretariat of Finance, shall prescribe: Provided, That the manufacturer of such articles shall first file a satisfactory bond for the faithful observance of all laws, rules and regulations applicable thereto; PROVIDED FURTHER, BONDED MANUFACTURING WAREHOUSES SHALL LIKEWISE BE SUBJECT TO THE PROVISIONS UNDER TITLE V, PART 1 OF THIS CODE, AS AMENDED; PROVIDED FINALLY, THAT THESE REQUIREMENTS SHALL EXTEND TO REGISTERED LOCATORS OPERATING UNDER THE CHARTERS OF THE PHILIPPINE ECONOMIC ZONE AUTHORITY, THE SUBIC BAY METROPOLITAN AUTHORITY, AND OTHER FREEPORTS AND ECOZONES."

SEC. 25. Section 2002 of the TCCP, as amended, is hereby further amended to read as follows:

" SEC. 2002. *Exemption Duty* -

a. xxx

b. Any imported material used in the manufacture of such articles, and any package, covering, brand and label used in putting up the same may, under the regulation prescribed by the Commissioner, with the approval of the Secretary of Finance, be conveyed without the payment of duty into any bonded manufacturing warehouse, and imported articles may, under the aforesaid regulations, be transferred without the payment of duty from any bonded warehouse into any bonded manufacturing warehouse, or to duly accredited sub-contractors of manufacturers who shall process the

same into finished products for exports and deliver such finished products back to the bonded manufacturing warehouse, therefrom to be exported; but this privilege shall not be held to apply to implements, machinery or apparatus to be used in the construction or repair of any bonded manufacturing warehouse: Provided, however, That the materials transferred or conveyed into any bonded manufacturing warehouse shall be used in the manufacture of articles for exportation within a period of THIRTY (30) DAYS from date of such transfer or conveyance into the bonded manufacturing warehouse, which period may for sufficient reasons be further extended for not more than THIRTY (30) DAYS by the Commissioner. Materials not used in the manufacture of articles for exportation within the prescribed period shall pay the corresponding duties: Provided, further, That the operation of embroidery and apparel firms shall continue to be governed by Republic Act Numbered Thirty One hundred and thirty-seven."

SEC. 26. Section 2005 of the TCCP, as amended, is hereby further amended to read as follows:

SEC. 2005. Bonded Smelting Warehouses. - The plants of manufacturers engaged in smelting or refining, or both, of ores and crude metals, may, upon the filing of CASH bonds, be designated as bonded smelting warehouses. Ores or crude metals may be removed from the vessel or aircraft in which imported, or from a bonded warehouse, into a bonded smelting warehouse without the payment of duties thereon, and there smelted or refined, or both, together with ores or crude metals of home or foreign productions: Provided, That the CASH BOND SHALL BE IN a sum equal in amount to the regular duties which would have been payable on such ores and crude metals if entered for consumption at the time of their importation, and the several charges against such bond shall be cancelled upon the exportation or delivery to a bonded manufacturing warehouse established under section twenty hundred and one hereof of a quantity of the same kind of metal equal to the quantity of metal producible from the smelting or refining, or both, of the dutiable metal contained in such ores or crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Commissioner: Provided, *further*, That the said metals so producible or any portion thereof, may be withdrawn for RE-EXPORTATION UPON PROOF THAT THE ORDER TO IMPORT THE SUBJECT METALS HAS BEEN CANCELLED AND THAT THE METALS TO BE WITHDRAWN DO NOT AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL INVENTORY OF THE BONDED SMELTING WAREHOUSE: Provided, *further*, That on the arrival of the ores or crude metals at such establishments they shall be sampled and assayed according to commercial methods under the supervision of proper government officials: Provided, *further*, That all labor performed and services rendered pursuant to this section shall be under the supervision of the proper customs official and at the expenses of the manufacturer: Provided, *further*, That all regulations for carrying out the provisions of this section shall be prescribed by the Commissioner with the approval of the department head: Provided, *FURTHER*, That the several charges against the bond of any smelting warehouse established under the provisions of this section may be cancelled upon the exportation or transfer to a bonded manufacturing warehouse from any other bonded smelting warehouse established under this section of a quantity of the same kind of metal, in excess of that covered by open bonds, equal to the amount of metal producible from the smelting or refining, or both, of the dutiable metal contained in the imported ores or crude metals, due

allowance being made of the smelter wastage as ascertained from time to time by the Commissioner with the approval of the department head *PROVIDED FINALLY: THAT BONDED SMELTING WAREHOUSES SHALL LIKEWISE BE SUBJECT TO THE PROVISIONS UNDER TITLE V, PART 1 OF THIS CODE, AS AMENDED.*"

SEC. 27. Section 2503 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 2503. Undervaluation, Misclassification, and Misdeclaration in Entry. When the dutiable value of the imported articles shall be so declared and entered that the duties based on the declaration of the importer on the face of the entry would be less by ten percent (10%) than should be legally collected, or when the imported articles shall be so described and entered that the duties based on the importer's description on the face of the entry would be less by ten percent (10%) than should be legally collected based on the tariff classification, or when the dutiable weight, measurement or quantity of imported articles is found upon examination to exceed by ten percent (10%) or more than the entered weight, measurement or quantity, a surcharge shall be collected from the importer in an amount of not less than the difference between the full duty and the estimated duty based upon the declaration of the importer, nor more than twice of such difference: *Provided, That* an undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a prima facie evidence of fraud penalized under Sections 2530 AND 3602 of this Code: *Provided, further, That* any misdeclared or undeclared imported article/ items found upon examination shall ipso facto be forfeited in favor of the Government to be disposed of pursuant to the provisions of this Code."

SEC. 28. Section 2603 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 2603. Mode of Sale. - In the absence of any special provision, subject to the provisions of Section 2601 above provided, property subject to sale by the customs authorities shall be sold at public auction within FIFTEEN (15) DAYS after ten (10) days notice of such sale shall have been PUBLISHED IN AT LEAST (2) NEWSPAPERS OF GENERAL CIRCULATION, POSTED ON THE OFFICIAL WEBSITE OF THE BUREAU OF CUSTOMS, AND conspicuously posted at the FRONT ENTRANCE OF THE CUSTOMS HOUSE. "

SEC. 29. Section 3601 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 3601. Unlawful Importation. - Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law or receive, conceal, buy, sell, or in any way facilitate the transportation, concealment or sale of such article after importation, knowing the same to have been imported contrary to law, shall be guilty of smuggling and shall be punished with:

1. A fine IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF and imprisonment of not less than six months and one day nor more than four years, if the appraised value, to

be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported exceeds FIVE THOUSAND PESOS but does not exceed fifty thousand pesos;

2. A fine IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF and imprisonment of not less than FOUR YEARS and one day nor more than eight years, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported *is* more than FIFTY thousand pesos but does not exceed one hundred fifty thousand pesos;

3. A FINE IN THE AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF AND IMPRISONMENT OF NOT LESS THAN EIGHT YEARS AND ONE DAY NOR MORE THAN TWELVE YEARS, IF THE APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED UNDER THIS CODE, INCLUDING DUTIES AND TAXES, OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS ONE HUNDRED FIFTY THOUSAND PESOS BUT DOES NOT EXCEED TWO HUNDRED FIFTY THOUSAND PESOS;

4. A FINE IN THE AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF AND IMPRISONMENT OF NOT LESS THAN TWELVE YEARS AND ONE DAY NOR MORE THAN FIFTEEN YEARS, IF THE APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED UNDER THIS CODE, INCLUDING DUTIES AND TAXES, OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS TWO HUNDRED FIFTY THOUSAND PESOS BUT DOES NOT EXCEED FIVE HUNDRED THOUSAND PESOS;

5. A FINE IN THE AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF AND IMPRISONMENT OF NOT LESS THAN FIFTEEN YEARS AND ONE DAY NOR MORE THAN TWENTY YEARS, IF THE APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED UNDER THIS CODE, INCLUDING DUTIES AND TAXES, OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS FIVE HUNDRED THOUSAND PESOS BUT DOES NOT EXCEED ONE MILLION PESOS;

6. A FINE IN THE AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT THEREOF AND LIFE IMPRISONMENT, IF THE APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED UNDER THIS CODE, INCLUDING DUTIES AND TAXES, OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS ONE MILLION PESOS.

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

"In applying the above scale of penalties, if the offender is an alien and the prescribed penalty is not death, he shall be deported after serving the sentence without further proceedings of deportation. If the offender is a government official or employee, the penalty shall be the maximum as hereinabove prescribed and the offender shall suffer an additional penalty

of perpetual disqualification from public office, to vote and participate in any public election.

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

SEC. 30. Section 3603 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 3603. Failure to Report Fraud. - Any master, pilot in command or other officer, owner or agent of any vessel or aircraft trading with or within the Philippines and any employee of the Bureau of Customs who, having cognizance of any fraud on the customs revenue, shall fail to report all information relative thereto to the Collector as by law required shall be punished by a fine of not LESS THAN ONE HUNDRED THOUSAND PESOS BUT NOT MORE THAN ONE MILLION PESOS AND IMPRISONMENT OF NOT LESS THAN EIGHT YEARS BUT NOT MORE THAN TWELVE YEARS.

If the offender is an alien, he shall be deported after serving the sentence. If the offender is a public official or employee, he shall suffer additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election."

SEC. 31. Section 3604 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 3604. Statutory Offenses of Officials and Employees. - Every official, agent or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Code, who is guilty of any delinquency herein below indicated shall be punished with a fine of not LESS THAN ONE HUNDRED THOUSAND PESOS BUT NOT MORE THAN ONE MILLION PESOS AND IMPRISONMENT OF NOT LESS THAN EIGHT YEARS BUT NOT MORE THAN TWELVE YEARS and perpetual disqualification to hold public office, to vote and to participate in any public office election:

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SEC. 32. Section 3605 of the TCCP, as amended, is hereby further amended to read as follows:

SEC. 3605. Concealment or Destruction of Evidence of Fraud. - Any person who willfully conceals or destroys, any invoice, book or paper relating to any article liable to duty after an inspection thereof has been demanded by the Collector of any collection district or at anytime conceals or destroys any such invoice, book, or paper for the purpose of suppressing any evidence of fraud therein contained, shall be punished with a fine of not LESS THAN ONE HUNDRED THOUSAND PESOS BUT NOT MORE THAN ONE MILLION PESOS AND IMPRISONMENT OF NOT LESS THAN EIGHT YEARS BUT NOT MORE THAN TWELVE YEARS."

SEC. 33. Section 3606 of the TCCP, as amended, is hereby further amended to read as follows:

"SEC. 3606. *Affixing Seals.* - Any person who, without authority affixes or attaches a customs seal, fastening, or mark or any seal, fastening or mark purporting to be a customs seal, fastening or mark to any vessel, vehicle on land, sea or air, warehouse, or package, shall be punished with a fine of not LESS THAN ONE HUNDRED THOUSAND PESOS BUT NOT MORE THAN ONE MILLION PESOS AND IMPRISONMENT OF NOT LESS THAN EIGHT YEARS BUT NOT MORE THAN TWELVE YEARS. If the offender is an alien, he shall be deported after serving the sentence, If the offender is a public official or employee, he shall suffer an additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election."

SEC. 34. *Separability Clause.* - Any portion or provisions of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

SEC. 35. *Repealing Clause.* - All other laws, decrees, executive orders, proclamations and administrative regulations, or parts thereof consistent herewith are hereby repealed or modified accordingly.

SEC. 36. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national papers of general circulation.

Approved,