



HOUSE OF REPRESENTATIVES

H. No. 4788

BY REPRESENTATIVES RODRIGUEZ (M.), RODRIGUEZ (R.), UMALI (R.),
MANDANAS AND FARIÑAS, PER COMMITTEE REPORT NO. 1169

AN ACT TO PRESCRIBE THE CUSTOMS MODERNIZATION AND TARIFF ACT OF 2011

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

TITLE I

PRELIMINARY PROVISIONS

CHAPTER 1

SHORT TITLE

SECTION 100. *Short Title.* – This Act shall be known as the “Customs Modernization and Tariff Act (CMTA) of 2011”.

CHAPTER 2

GENERAL AND COMMON PROVISIONS

SEC. 101. *Declaration of Policy.* – It is the declared policy of the State to promote and secure international trade, protect and enhance government revenue, prevent smuggling and other fraud against customs, and modernize customs and tariff administration by:

- (a) Developing and implementing programs aimed at continuously improving customs systems and processes to facilitate and harmonize procedures and prevent smuggling and other fraud in international trade;
- (b) Adopting customs policies, rules and procedures that are clear, transparent and consistent with international agreements and customs best practices;
- (c) Establishing a regime of informed compliance for customs stakeholders by providing easy access to all public information, not otherwise confidential and for the Bureau's use only, regarding customs laws, rules and regulations, administrative policies and guidelines, procedures and practices that would enable them to fulfill their obligation to exercise due diligence in dealing with customs;
- (d) Consulting and cooperating, wherever appropriate, with other government agencies, and the private sector in customs policy development and implementation;
- (e) Providing parties aggrieved by the Bureau's action and/or decision with administrative and judicial appellate remedy; and
- (f) Utilizing modern techniques in customs administration such as risk management and post clearance based controls, and maximizing the use of information and communications technology in carrying out the mandate of the Bureau.

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

- (a) *Abatement* refers to the reduction or diminution, in whole or in part, of duties and taxes where payment has not been made.
- (b) *Admission* refers to the act of bringing imported articles into the free zone directly or through transit.

- (c) *Air Freight Forwarders* refer to any indirect air carrier which, in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating such property or performs or provides for the performance of break-bulking and distributing operations with respect to consolidated shipments, and is responsible for the transportation of property from the point of receipt to the point of destination and utilizes for the whole or any part of such transportation the services of a direct air carrier.
- (d) *Airway Bill (AWB)* refers to a transport document for airfreight used by airlines and international freight forwarders. The holder or consignee of the bill has the right to claim delivery of the goods when they arrive at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to airlines and carriers, a description of the article, and applicable transportation charges.
- (e) *Appeal* refers to the act by which a person who is aggrieved by any act, decision, order or omission of the Bureau, seeks redress before the Bureau, the Secretary of Finance, or competent court, as the case may be.
- (f) *Articles* refer to goods, wares and merchandise and in general anything that may be made the subject of importation or exportation.
- (g) *Assessment* refers to the process of determining the amount of duties and taxes and other charges due on imported and exported articles.

- (h) *Bill of Lading (B/L)* refers to a transport document issued by shipping lines, carriers and international freight forwarders or non-vessel operating common carrier for water-borne freight. The holder or consignee of the bill has the right to claim delivery of the goods at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to shipping lines and carriers, a description of the article, and applicable transportation charges.
- (i) *Break-bulk* refers to a non-containerized cargo grouped or consolidated for shipment and broken down or subdivided into unitized cargo, such as in pallets, or packed in bags or boxes.
- (j) *Break-bulk Agent* refers to a Philippine agent/representative of a freight forwarder or cargo consolidator named in a Master Bill of Lading as shipper/consignee of a consolidated shipment.
- (k) *Bureau* refers to the Bureau of Customs.
- (l) *Cargo Consolidator* refers to a firm which undertakes groupage of the small shipment or less container load (LCL) of/for single or various consignors/consignees by procuring vessel/container space from carriers and issuing its own Bill of Lading or equivalent using its own name and address.
- (m) *Carrier* refers to the person actually transporting goods or in charge of or responsible for the operation of the means of transport such as airlines, shipping lines, freight forwarders, cargo consolidators, non-vessel operating common carriers and other international transport operators.
- (n) *Checking the goods declaration* refers to the action taken by the Bureau to ascertain that the goods declaration is correctly made out

and that the supporting documents submitted fulfill the prescribed conditions for lodgement.

- (o) *Clearance* refers to the accomplishment of the customs and other government formalities necessary to allow goods to enter for home use, warehousing, transit or transshipment, or to be exported or placed under another customs procedure.
- (p) *Coastwise ports* refer to such domestic ports as are open to domestic trade only. These include all ports, harbors and places that are not ports of entry. Constructive import or export shall refer to the movement of imported goods to and from the free zone and customs territory.
- (q) *Customs and Tariff Laws* refer to the provisions of this Act and regulations pursuant thereto, and all other laws, rules and regulations which are subject to enforcement and implementation by the Bureau or otherwise within its jurisdiction.
- (r) *Customs office* refers to any customs administrative unit competent to perform all or any of the functions enumerated under customs and tariff laws.
- (s) *Domestic Port* refers to a port within the Philippine jurisdiction for both domestic and international trade. *Foreign Port* refers to a port or place outside the jurisdiction of the Philippines.
- (t) *Entry* refers to the act, documentation and process of bringing imported articles into the customs territory, including those articles coming from the free zone.
- (u) *Free Zone* refers to freeports, Philippine Economic Zone Authority (PEZA) zones and such other freeports as established or created by law and referred to in Section 813 of this Act.

- (v) *Goods declaration* refers to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed for the entry or admission of imported or exported goods and the particulars which customs require for its application.
- (w) *House Airway Bill* refers to a document which covers each individual shipment of a consolidation. It is issued by the consolidator/forwarder and contains instructions to the break-bulk agent.
- (x) *Importation* refers, in general, to the act of bringing in of articles from a foreign territory into the Philippine jurisdiction, whether for home use, warehousing, or admission to a free zone: *Provided*, That, the entry of imported articles into a free zone shall be termed admission to distinguish it from imported articles brought into the customs territory.
- (y) *International Freight Forwarder* refers to a local entity that acts as a cargo intermediary and facilitates transport of goods on behalf of its client without assuming the role of a carrier. It can also perform other forwarding services, such as booking cargo space, negotiating freight rates, preparing documents, advancing freight payments, providing packing/crating, trucking and warehousing, engaging as an agent/representative of a foreign non-vessel operating common carrier/cargo consolidator named in a Master Bill of Lading as consignee of a consolidated shipment, and other related undertakings.
- (z) *Master Airway Bill* refers to a negotiable document or airway bill issued by an airline as a proof of a carrier's responsibility covering

consolidated shipments/consignments, showing the consolidator or the forwarder as the shipper.

(aa) *Master Bill of Lading* refers to a contract for transportation between a shipper of consolidated cargoes and a carrier. It also evidences receipt of the cargo by the carrier. A bill of lading shows ownership of the cargo, and if made negotiable, can be bought, sold or traded while the goods are in transit.

(bb) *Non-Vessel Operating Common Carrier (NVOCC)* refers to an entity, which may or may not own or operate a vessel, provides a point-to-point service which may include several modes of transport and/or undertakes groupage of LCL shipments and issues the corresponding transport document.

(cc) *Port of Entry* refers to a domestic port open to both domestic and international trade, including principal ports of entry and subports of entry. A principal port of entry is the chief port of entry of the collection district wherein it is situated and is the permanent station of the Collector of such port. Subports of entry are under the administrative jurisdiction of the Collector of the principal port of entry of the district. Whenever the term "Port of Entry" is used herein, it shall include "airport of entry".

(dd) *Release of goods* refers to the action by the Bureau to permit goods undergoing clearance to be placed at the disposal of the person concerned.

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

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

(gg) *Smuggling* refers to an act of fraudulently importing or bringing into the Philippines, or assisting in doing so, of any article, contrary to law or

the act of receiving, concealing, buying, selling, disposing or in any manner, facilitating the transportation, concealment, purchase, sale or disposition of such article fully knowing that this has been imported contrary to law. It includes the exportation of articles in a manner contrary to law. Articles subject to this paragraph shall be known as smuggled article.

(hh) *Taxes* refer to all taxes, fees and charges imposed by this Act and the National Internal Revenue Code (NIRC), as amended, and collected by the Bureau.

(ii) *Transit* refers to the customs procedure under which goods are transported under customs control from one customs office to another, or to a free zone.

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

SEC. 103. *When Importation Begins and Deemed Terminated.* – Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. Importation is deemed terminated when the articles have left the custody or control of the Bureau after payment of duties, taxes and other charges due upon the articles or secured to be paid at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, upon the grant of the legal permit for withdrawal on said articles.

SEC. 104. *When Duty and Tax is Due on Imported Article.* – All articles, when imported from any foreign country into the Philippines, shall be subject to duty upon each importation, even though previously exported from the Philippines, except as otherwise specifically provided for in this Act or in other laws.

Duties, taxes and other charges shall be paid prior to release from customs custody or prior to entry into the customs territory in case of withdrawal from the free zone. However, for certain highly compliant and low-risk importers or exporters as determined by regulation, the Bureau shall allow the deferred payment of duties and taxes for a period of not less than fourteen (14) days but not exceeding thirty (30) days.

Unpaid duties, taxes and any other charges, shall be subject to the legal interest of twenty percent (20%) per annum computed from the expiration of the due date or in case of goods admitted into free zones, from the time the assessment is made after goods enter the customs territory. The legal interest shall be imposed in addition to any applicable fine or penalty.

When duties, taxes and other charges are paid, the Bureau shall issue the necessary receipt or acknowledgement as proof of such payment.

In case of deferred payment, customs shall have three (3) years within which it may take legal action to collect duties and taxes not paid on the due date.

SEC. 105. *Effective Date of Rate of Import Duty.* – Imported articles shall be subject to the rate or rates of import duty of the applicable tariff heading existing at the time of entry or upon withdrawal from the warehouse, in the Philippines, for consumption.

On article abandoned or forfeited to, or seized by, the government, and then sold at public auction, the rates of duty and the tariff in force on the date of the auction shall apply: *Provided*, That duty based on the weight, volume and quantity of articles shall be levied and collected on the weight, volume and quantity at the time of their entry into the warehouse or the date of abandonment, forfeiture and/or seizure.

SEC. 106. *Treatment of Importation.* – Imported articles shall be deemed “entered” in the Philippines for consumption when the specified entry

form is properly filed and accepted, together with any related document required by the provisions of this Act and/or other regulations, to be filed with such form at the time of entry, at the port or station by the customs official designated to receive such entry papers and any duties, taxes, fees, and/or other lawful charges required to be paid at the time of making such entry have been paid or secured to be paid with the customs official designated to receive such monies, provided that the article has previously arrived within the limits of the port of entry.

Imported articles shall be deemed "withdrawn" from warehouse in the Philippines for consumption when the specified form is properly filed and accepted, together with any related document required by any provision of this Act and/or other regulations, to be filed with such form at the time of withdrawal, by the customs official designated to receive the withdrawal entry and any duties, taxes, fees and/or other lawful charges have been paid with the customs official designated to receive such payment.

Imported articles shall be deemed "admitted" into the free zone when the specified form, together with any related documents, as required by existing laws and regulations, is properly filed and accepted by customs and other relevant government authorities at the time of admission.

SEC. 107. *Owner of Imported Articles.* – All articles imported into the Philippines shall be held to be the property of the person to whom these are consigned and the holder of a bill of lading, airway bill or other equivalent transport document duly endorsed by the consignee therein named, or, if consigned to order, by the consignor, shall be deemed the consignee thereof. The underwriters of abandoned articles and the salvors of articles saved from wreck at sea, coast or any area of the Philippines, may be regarded as the consignees.

SEC. 108. *Liability of Importer for Duties and Taxes.* – Unless relieved by law or regulation, the liability for duties, taxes, fees and other charges attached to importation constitutes a personal debt due from the importer to the government and can be discharged only by payment in full of all duties, taxes, fees and other charges legally accruing. It also constitutes a lien upon the imported articles which may be enforced while such articles are in custody or subject to the control of the government.

SEC. 109. *Importations by the Government.* – Except those provided for in Section 800 of this Act, all importations by the government for its own use or that of its subordinate branches or instrumentalities, or corporations, agencies or instrumentalities owned or controlled by the government, shall be subject to the duties, taxes, fees and other charges provided for in this Act.

SEC. 110. *Declarant.* – A declarant is a person who makes and submits to the Bureau goods declaration or in whose name such declaration is made. Any person who possesses the right to dispose of the goods shall be entitled to directly act as declarant. However, when such person authorizes an agent to make the declaration in his behalf, he can only do so through an accredited customs broker except in case when the declarant is a juridical person in which case it may authorize a responsible officer to make the declaration in behalf of the juridical person.

SEC. 111. *Rights and Responsibilities of the Declarant.* – The person having the right to dispose shall be responsible for the accuracy of the information in the goods declaration made directly or through an agent and shall be liable for the duties, taxes and other charges due on the imported article.

The declarant shall sign the goods declaration personally or through a responsible officer in case of juridical person, even when assisted by a licensed customs broker who shall likewise sign said goods declaration. The declaration

shall be under oath and subject to the penalties for falsification or perjury that the statements contained in the goods declaration are true and correct. Such statements under oath shall constitute a *prima facie* evidence of knowledge or consent of the violation of any applicable provision of this Act when the importation is found to be unlawful.

Before filing the goods declaration, the declarant may, upon request in writing, and for such justifiable reasons and under such conditions as the Commissioner of Customs shall determine, be allowed to inspect the goods and to draw samples from the importation. There shall be no need for a separate declaration for the samples withdrawn under the Bureau's supervision: *Provided*, That such samples are included in the goods declaration for the particular consignment concerned.

SEC. 112. *Goods Declaration and Period of Filing.* – (a) Goods Declaration Format and Contents. – The format of the goods declaration shall conform to international standards.

The data required in the goods declaration shall be limited to only such particulars as are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and compliance with customs and tariff laws.

Where the declarant does not have all the information required to make the goods declaration, a provisional or incomplete goods declaration shall, for certain cases and for reasons deemed valid by the Bureau, be allowed to be lodged: *Provided*, That it contains the particulars deemed necessary by the Bureau for the acceptance of the goods declaration filed and that the declarant undertakes to complete the information required within a reasonable period of time as specified by regulations.

If the Bureau accepts a provisional or incomplete goods declaration, the tariff treatment to be accorded to the goods shall not be different from that which would have been accorded had a complete and correct goods declaration been lodged in the first instance.

The release of the goods shall not be delayed: *Provided*, That any security required has been furnished to ensure collection of any applicable duties and taxes.

The Bureau shall require the lodgement of the original goods declaration and only the minimum number of copies as necessary.

(b) Documents Supporting the Goods Declaration. – In support of the goods declaration, the Bureau shall only require documents necessary for customs control and to ensure that all requirements of the law have been complied with.

Where certain supporting documents cannot be lodged with the goods declaration for reasons deemed valid by the Bureau, it shall allow production of those documents within a reasonable time not exceeding forty-five (45) days from the filing of the goods declaration.

The Bureau shall permit the lodgement of supporting documents by electronic means.

The Bureau shall not require a translation of the particulars of supporting documents except when necessary to permit processing of the goods declaration.

- (c) *Period of Filing the Goods Declaration.* – Goods declaration must be filed within fifteen (15) days from the date of discharge of the last package from the vessel or aircraft. The period to file the goods declaration may, upon request, be extended on valid grounds for another fifteen (15) days: *Provided*, That the request is made before the expiration of the original period within which to file the goods declaration.

SEC. 113. *Lodgement and Registration.* – The Bureau shall permit the lodging of the goods declaration at any designated customs office.

Goods declaration shall be lodged during the hours designated by the Bureau. The Bureau shall make provision under such terms and conditions as the Commissioner of Customs may establish for the filing of goods declaration and supporting documents prior to the arrival of the goods.

The Bureau shall, for valid reason, permit the declarant to amend the goods declaration that has already been lodged: *Provided*, That when the request is received they have not begun to check the goods declaration or to examine the goods.

SEC. 114. *Special Procedures for Authorized Persons.* – For authorized persons who meet the criteria set down by the Bureau, including

having an appropriate record of compliance with customs requirements and a satisfactory system for managing their commercial records, the Bureau shall provide for:

- (a) Release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration; and
- (b) Clearance of the goods at the declarant's premises or another place authorized by the Bureau; and, in addition, to the extent possible, other special procedures such as:
 - (1) Allowing a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;
 - (2) Use of the authorized persons commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other customs requirements; and
 - (3) Allowing the lodgement of goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary goods declaration.

SEC. 115. *Examination of the Goods.* – (a) Time Required for Examination of Goods. – When the examination of the goods is required by the Bureau, such examination shall take place as soon as possible after the goods declaration has been lodged.

When scheduling examinations, priority shall be given to the examination of live animals and perishable goods and to other goods which the Bureau consider as urgently needing examination.

The Bureau and other agencies concerned shall come out with a system of coordination and joint examination of goods which must be inspected by the latter agencies under existing laws and regulations.

(b) Presence of the Declarant at Examination of the Goods. – As a general rule, the Bureau may examine the goods without the presence of the declarant or an authorized representative. However, the declarant or an authorized representative, upon request, shall be allowed to be present unless serious, exceptional circumstances exist to bar their presence.

If the Bureau deems it useful, it shall require the declarant to be present or to be represented at the examination of the goods or to render any assistance necessary to facilitate the examination.

(c) Sampling by the Customs. – Samples shall be taken only when deemed necessary by the Bureau to establish the tariff description and/or value of goods declared or to ensure compliance with customs and related laws. Samples drawn shall be as minimal as possible.

SEC. 116. *Penalties for Errors in Goods Declaration.* – The Bureau shall not impose substantial penalties for errors where it is satisfied that such errors are inadvertent and that there has been no fraudulent intent or gross negligence in the commission thereof; where it considers it necessary to discourage a repetition of such errors, a penalty may be imposed but shall be no greater than is necessary for this purpose.

SEC. 117. *Release of Goods.* – Goods declared shall be released as soon as duties and taxes and other lawful charges have been paid or secured to be paid and/or otherwise, all the pertinent laws, rules and regulations have been complied.

When the Bureau decides that it will require laboratory analysis of samples, detailed technical documents or expert advice, it shall release the goods before the results of such examination are known: *Provided*, That any security required has been furnished and provided it is satisfied that the goods are not subject to prohibitions or restrictions.

SEC. 118. *Abatement of Duties and Taxes.* – When goods have not yet been released for consumption or when they have been placed under another customs procedure, and provided that no offense has been detected, the party concerned shall not be required to pay the duties and taxes or shall be entitled to refund thereof:

- (a) When, at request of the party, such goods are abandoned or destroyed or rendered commercially valueless under customs control, as the Bureau may decide. Any costs involved shall be borne by the party concerned;
- (b) When such goods are destroyed or irrecoverably lost by accident or *force majeure*: *Provided*, That such destruction or loss is duly established to the satisfaction of the Bureau; and
- (c) On shortages due to the nature of the goods when such shortages are duly established to the satisfaction of the Bureau, any waste or scrap remaining after destruction shall be liable, if taken into consumption, to the duties and taxes that would be applicable to such waste or scrap imported in that state.

SEC. 119. *Disposition of Abandoned Goods.* – When the Bureau sells goods which have not been declared within the time allowed or could not be released although no offense has been discovered, the proceeds of the sale, after deduction of any duty and tax and all other charges and expenses incurred, shall be made over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period.

SEC. 120. *Deferred Payment for Government Importation.* – The government or any of its instrumentalities or agencies may avail of deferred payment for its importations under such terms and conditions that shall be determined by regulation to be jointly issued by the Department of Finance (DOF) and the Department of Budget and Management (DBM).

SEC. 121. *Refund of Duties and Taxes.* – Refund shall be granted where it is established that duties and taxes have been overcharged as a result of an error in the assessment.

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

Refund shall not be granted if the amount involved is less than Five thousand pesos (P5,000.00): *Provided, however,* That the Secretary of Finance, in consultation with the Commissioner of Customs, may change the minimum amount specified in this Act taking into account such factors as inflation or deflation.

SEC. 122. *Security.* – Customs regulation shall provide the forms and amount of security that are required to guarantee the payment of duties and taxes and other obligations provided for in this Act.

Any person required to provide security shall be allowed to choose any form of security: *Provided,* That it is acceptable to the Bureau. The Bureau shall not require security when they are satisfied that an obligation to the Bureau will be fulfilled. When security is required to ensure that the obligations arising from a customs procedure will be fulfilled, the Bureau shall accept a general security, in particular, from declarants who regularly declare goods at different offices in the customs territory under such terms and conditions as the Commissioner of Customs may determine.

Where security is required, the amount of security to be provided shall be as low as possible and, in respect of the payment of duties and taxes, shall not exceed the amount potentially chargeable.

Where security has been furnished, it shall be discharged as soon as possible after the Bureau is satisfied that the obligations under which the security was required have been duly fulfilled.

SEC. 123. *Competent Customs Offices.* – For administrative purposes, the Philippines shall be divided into as many collection districts as necessary, the respective limits of which may be changed from time to time by the Commissioner of Customs upon the approval of the Secretary of Finance. The location, staff competencies and business hours of these offices shall take into account the particular requirements of trade.

SEC. 124. *Customs Control.* – All goods, including means of transport, which enter or leave the customs territory, regardless of whether they are liable to duties and taxes, shall be subject to customs control which shall be limited to that necessary to ensure compliance with customs and related laws.

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

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

The Bureau shall evaluate traders commercial systems where those systems have an impact on customs operations to ensure compliance with customs requirements.

SEC. 125. *Application of Information and Communications Technology.* – Customs shall apply information and communications technology to enhance customs control and support a cost-effective and

efficient customs operations geared towards a paperless customs environment using internationally accepted standards.

The introduction of information and communications technology shall be carried out, in consultation with all relevant parties directly affected, to the greatest extent possible.

SEC. 126. *Relationship Between the Bureau and Third Parties.* – Persons concerned shall have the choice of transacting business with the Bureau either directly or by designating a third party to act on their behalf.

The customs transactions where the person concerned elects to do business on his own account shall not be treated less favorably or be subject to more stringent requirements than those customs transactions which are handled for the person concerned by a third party.

A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Bureau.

SEC. 127. *Information of General Application.* – To foster an informed compliance regime, the Bureau shall ensure that all relevant and available information of general application pertaining to customs law, not otherwise confidential or for the Bureau's use only, is readily accessible to any interested person for legitimate use.

When information that has been made available must be amended due to changes in customs law, administrative arrangements or requirements, customs shall, as far as may be feasible, make the revised information readily available sufficiently in advance of the entry into force of the changes to enable interested persons to take account of them, unless advance notice is precluded.

SEC. 128. *Information of a Specific Nature.* – Subject to regulation issued for the purpose, the Bureau shall provide information as may be available and is not otherwise confidential or for the Bureau's use only,

relating to a specific matter as requested by an interested person for legitimate use. The Bureau may require the payment of a reasonable fee in providing such information of a specific nature to interested parties.

SEC. 129. *Decisions and Rulings.* – At the written request of the person concerned, the Bureau shall notify its decision in writing within a period specified in this Act or by regulation where the decision is adverse to the person concerned, the reasons shall be given and the right of appeal advised.

The Bureau, shall, within the bounds of its mandate and consistent with Section 1602 of this Act, issue binding rulings at the request of the interested person on matters pertaining to importation or exportation of goods: *Provided,* That it has all the information it deems necessary.

SEC. 130. *Right of Appeal, Forms and Ground.* – Any person who is directly affected by a decision or omission of the Bureau pertaining to an importation or exportation or legal claim shall have a right of appeal.

An appeal in writing shall be lodged within the sufficient time period as specified in this Act or by regulation stating the grounds on which it is being made.

The Bureau shall not, as a matter of course, require that any supporting evidence be lodged together with the appeal but shall, in appropriate circumstances, allow a reasonable time for the lodgement of such evidence.

CHAPTER 3

TYPES OF IMPORTATION

SEC. 131. *Free and Regulated Importations and Exportations.* – Unless otherwise provided by law or regulation, all articles may be freely imported into and exported from the Philippines without need for import and export permits, clearances or licenses.

Articles subject to government regulation may be brought in or exported only after securing the required import or export permits, clearances, licenses, and the like, prior to importation or exportation; and if allowed by governing laws or regulations, after arrival of the articles but prior to release from customs custody in case of importation.

SEC. 132. *Prohibited Importations and Exportations.* – The importation into, and exportation from, the Philippines of the following articles are prohibited:

(a) Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof, except when authorized by law;

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

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

(d) Articles, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises or describes or gives directly or indirectly information where, how or by whom unlawful abortion is produced;

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

(f) Lottery and sweepstakes tickets except those authorized by the Philippine government, advertisements thereof, and lists of drawings therein;

(g) Any article manufactured in whole or in part of gold, silver or other precious metals or alloys thereof, the stamps, brands or marks or which do not indicate the actual fineness of quality of said metals or alloys;

(h) Any adulterated or misbranded articles of food or any adulterated or misbranded drug in violation of relevant laws and regulations;

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

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

(k) Infringing goods as defined under the intellectual property code and related laws; and

(l) All other articles and parts thereof, the importation and exportation of which is prohibited by law or rules and regulations issued by competent authority, and international agreements to which the Philippines is a signatory.

The prohibition to import or export articles as defined herein shall include those in transit.

TITLE II

BUREAU OF CUSTOMS

CHAPTER I

GENERAL ADMINISTRATION

SEC. 200. *Chief Officials of the Bureau of Customs.* – The Bureau shall have one (1) chief and as many assistant chiefs to be known respectively as the Commissioner of Customs and Deputy Commissioners of Customs as

provided for under existing laws and regulations. The Commissioner and the Deputy Commissioners of Customs shall be appointed by the President of the Philippines.

SEC. 201. *Functions of the Bureau.* – The general duties, powers and jurisdiction of the Bureau shall include:

- (a) Assessment and collection of the lawful revenues from imported articles and all other dues, fees, charges, fines and penalties accruing under the tariff and customs laws;
- (b) Prevention and suppression of smuggling and other frauds upon the customs;
- (c) Facilitation and security of international trade and commerce through an informed compliance program;
- (d) Supervision and control over the entrance and clearance of vessels and aircraft engaged in foreign commerce;
- (e) Enforcement of the tariff and custom laws and all other laws, rules and regulations relating to the tariff and customs administration;
- (f) Supervision and control over the handling of foreign mails arriving in the Philippines, for the purpose of the collection of the lawful duty on the dutiable articles thus imported and the prevention of smuggling through the medium of such mails;
- (g) Supervision and control of all import and export cargoes, landed or stored in piers, airports, terminal facilities, including container yards and freight stations, for the protection of government revenue;
- (h) Exercise of exclusive original jurisdiction over seizure and forfeiture cases under this Act; and
- (i) Such other duties, functions and jurisdiction as provided for in this Act and other laws.

SEC. 202. *Annual Report of the 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 custom 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 as provided for in this Act;

(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 of 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 preceding year. Copies of such annual report shall be furnished regularly to the Congress of the Philippines, the DOF, the Tariff Commission, the National Economic and Development Authority (NEDA), the Bangko Sentral ng Pilipinas (BSP), the BOI, the DBM and other economic agencies of the government, on or before December 30, of each year.

SEC. 203. *Commissioner to Make Rules and Regulations.* – The Commissioner shall, subject to approval of the Secretary of Finance, promulgate all rules and regulations necessary to enforce the provisions of this Act. The Commissioner shall also cause the preparation and publication of a customs manual covering up-to-date rules and regulations and decisions of the Bureau. The manual shall be published and made available to the public at least once every quarter within the first month after the end of every quarter. The Secretary of Finance and/or the Commissioner of Customs shall furnish the Congress of the Philippines, the BSP, the BOI, the NEDA and the Tariff

Commission with at least three (3) copies each of every department order, administrative order, memorandum circular and such rules and regulations which are promulgated from time to time for the purpose of implementing the provisions of this Act.

SEC. 204. *Commissioner to Furnish Copies of Collectors' Liquidated Duplicates.* – The Commissioner shall regularly furnish the NEDA, the National Statistics Office (NSO), the Bureau of Internal Revenue (BIR) and the Tariff Commission, a copy of each of all customs import/export entries as filed with the Bureau. 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 (COA).

CHAPTER 2

PORTS AND COLLECTION DISTRICTS

SEC. 205. *Collection Districts and Ports of Entry Thereof.* – The principal ports of entry for the respective collection districts shall be Aparri, San Fernando, Manila, Manila International Container Port, Ninoy Aquino International Airport, Subic, Clark, Batangas, Legaspi, Iloilo, Cebu, Tacloban, Surigao, Cagayan de Oro, Zamboanga, Davao, Limay and such other ports that may be created pursuant to this Act. The sea port and airport authorities and private port operators shall provide free of charge, appropriate facilities like designated examination areas and space for customs equipment like x-ray scanners, to enable the Bureau to effectively perform its mandate pursuant to customs and tariff laws.

SEC. 206. *Power of the Secretary of Finance to Open and Close Any Port.* – The Secretary of Finance may open or close any port of entry upon the recommendation of the Commissioner. When a port of entry is closed, its existing personnel shall be reassigned to other duties by the Commissioner

subject to the approval of the Secretary of Finance. In all cases, the Secretary of Finance shall report to the President any action taken on the opening or closure of any port of entry.

SEC. 207. *Designation of Airports of Entry.* – The Secretary of Finance, upon the recommendation of the Commissioner and the Director of the Civil Aeronautics Board, is authorized to designate airports of entry for civil aircraft arriving in the Philippines from any place outside thereof and for articles carried in such aircraft. Such airport of entry shall be considered as a port of entry for aliens arriving on such aircraft as a place of quarantine inspection.

SEC. 208. *Assignment of Customs Officers and Employees to Other Duties.* – The Commissioner of Customs may assign any employee or officer of the Bureau with a salary grade below twenty-five (25) to any port, service, division or office within the Bureau or assign him duties as the best interest of the service may require, in accordance with the staffing pattern or organizational set-up as may be prescribed by law. When the employee or officer sought to be assigned holds a position with a salary grade of twenty-five (25) or above, such order of assignment shall be subject to the approval by the Secretary of Finance: *Provided*, That such assignment shall not affect the tenure of office of the employees nor result in the change of status, demotion in rank and/or deduction in salary.

SEC. 209. *Authority of Deputy Collectors of Customs.* – The deputy collector at a principal port of entry may, in the name of the District Collector and subject to his supervision and control, perform any particular act which might be done by the District Collector himself. At subports, a deputy collector may, in his own name, exercise the general powers of a collector, subject to the supervision and control of the Collector of the subport.

Collectors may, with the approval of the Commissioner, appoint from their force such number of special deputies as may be necessary for the proper conduct of the public business, with authority to sign documents and perform such service as may be specified in writing.

SEC. 210. *Jurisdiction of Collector Over Importation of Articles.* – The Collector shall cause all articles entering the jurisdiction of his district and destined for importation through his port to be entered at the customhouse, shall cause all such articles to be valued for customs purposes and classified, and shall assess and collect the duties, taxes and other charges thereon, and shall hold possession of all imported articles upon which duties, taxes, and other charges have not been paid or secured to be paid, disposing of the same according to law.

SEC. 211. *Jurisdiction of Collector Over Articles of Prohibited Importation and Exportation.* – Where articles are of prohibited importation or exportation or subject to importation or exportation only upon conditions prescribed by law, it shall be the duty of the Collector to exercise such jurisdiction in respect thereto as will prevent importation or exportation or otherwise secure compliance with all legal requirements.

SEC. 212. *Authority of the Collector of Customs to Hold the Delivery or Release of Imported Articles.* – Whenever any importer, except the government, has an outstanding and demandable account with the Bureau, the Collector shall hold the delivery of any article imported or consigned to such importer unless subsequently authorized by the Commissioner of Customs, and upon notice as in seizure cases, may sell such importation or any portion thereof to cover the outstanding account of such importer: *Provided, however,* That at any time prior to the sale, the delinquent importer may settle the obligations with the Bureau, in which case the aforesaid articles may be

delivered upon a payment of the corresponding duties and taxes and compliance with all other legal requirements.

SEC. 213. *Succession of Deputy Collector to Position of Acting Collector.* – In the absence or disability of a Collector at any port or in case of a vacancy in his office, the temporary discharge of his duties shall devolve upon the deputy collector of the port. Where no deputy collector is available, an official to serve in such contingency may be designated in writing by the Collector from his own force. The Collector making such designation shall report the same without delay to the Commissioner and the Chairman, COA, forwarding to them the signature of the person so designated.

SEC. 214. *Designation of Official as Customs Inspector.* – At a coastwise port where no customs official or employee is regularly stationed, the Commissioner may designate any national, provincial or municipal official of the port to act as an inspector of customs for the purpose of enforcing laws and regulations of the Bureau in the particular port; but all such designations shall be made with the consent of the proper department head of the official so designated.

SEC. 215. *Determination of the De Minimis Value.* – The Secretary of Finance, upon the recommendation of the Commissioner of Customs, shall establish the *de minimis* value or a minimum amount of duties and taxes below which no duties and taxes shall be collected.

SEC. 216. *Records to be Kept by Customs Officials.* – District Collectors, deputy collectors, and other customs officials acting in such capacities are required to keep true, correct and permanent records of their official transactions, to submit the same to the inspection of authorized officials at all times, and turn over all records and official papers to their successors or other authorized officials.

In the office of the collector of a collection district, there shall be kept a document dry seal of such design as the Commissioner shall prescribe with which shall seal all documents and records requiring authentication in such office.

SEC. 217. *Port Regulations.* – A Collector may prescribe local administrative regulation, not inconsistent with law or the general bureau regulations, for the government of his port or district, the same to be effective upon the approval by the Commissioner.

SEC. 218. *Reports of the Collector to the Commissioner.* – A Collector shall immediately make a report to the Commissioner concerning prospective or newly begun litigation in the district touching on matters relating to the customs service; and he shall, in such form and detail as shall be required by the Commissioner make regular monthly reports of all transactions in his port and district.

TITLE III

CUSTOMS TERRITORY AND CUSTOMS CONTROL

CHAPTER I

CUSTOMS TERRITORY

SEC. 300. *Territorial Jurisdiction.* – For the due and effective exercise of the powers conferred by law and to the extent requisite therefor, said Bureau shall have the right of supervision and police authority over all seas within the jurisdiction of the Philippines and over all coasts, ports, airports, harbors, bays, rivers and inland waters whether navigable or not from the sea.

When a vessel or aircraft becomes subject to seizure by reason of an act done in Philippine waters or air space in violation of the tariff and customs laws, a pursuit of such vessel or aircraft began within the jurisdictional waters or air space may continue beyond the maritime zone or air space, and the

vessel or aircraft may be seized on the high seas or international air space. Imported articles which may be subject to seizure for violation of the tariff and customs laws may be pursued in their transportation in the Philippines by land, water or air and such jurisdiction exerted over them at any place therein as may be necessary for the due enforcement of the law.

SEC. 301. *Jurisdiction Over Premises Used for Customs Purposes.* – The Bureau shall, for customs purposes, have exclusive control, direction and management of customhouses, warehouses, offices, wharves, and other premises in the respective ports of entry, in all cases without prejudice to the general police powers of the city or municipality and the Philippine Coast Guard in the exercise of its functions wherein such premises are situated.

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

SEC. 303. *Power of the President to Subject Premises to Jurisdiction of the Bureau of Customs.* – When any public wharf, landing place, street or land, not previously under the jurisdiction of the Bureau, in any port of entry, is necessary or desirable for any proper customs purpose, the President of the Philippines may, by executive order, declare such premises to be under the jurisdiction of the Bureau, and thereafter the authority of such Bureau in respect thereto shall be fully effective.

SEC. 304. *Trespass or Obstruction of Customs Premises.* – Only persons or their duly authorized representatives with legitimate business with, or employees of, the port or the Bureau shall be allowed to enter the customs premises. No person shall obstruct a customhouse, warehouse, office, wharf,

street or other premises under the control of the Bureau, or in any of the approaches to that house or premises.

SEC. 305. *Special Surveillance for Protection of Customs Revenue and Prevention of Smuggling.* – In order to prevent smuggling and to secure the collection of the legal duties, taxes and other charges, the customs service shall exercise surveillance over the coast, beginning when a vessel or aircraft enters Philippine territory and concluding when the article imported therein has been legally passed through the customhouse: *Provided,* That the function of the Philippine Coast Guard to prevent and suppress illegal entry, smuggling and other customs frauds and violations of the maritime law and its proper surveillance of vessels entering and/or leaving the Philippine territory as provided in Section 3(a) of Republic Act No. 5173 shall continue to be in force and effect.

SEC. 306. *Temporary Storage of Articles.* – Subject to the rules and regulations to be approved by the Secretary of Finance, the Commissioner of Customs shall establish a system for temporary storage of imports prior to goods declaration.

CHAPTER 2

COASTWISE TRADE

SEC. 307. *Requirement of Manifest in Coastwise Trade.* – Manifests shall be required for cargo and passengers transported from one place or port in the Philippines to another only when one or both of such places is a port of entry.

SEC. 308. *Manifest Required Upon Departure from a Port of Entry.* – Prior to departure from a port of entry, the master of a vessel licensed for the coastwise trade shall make out and subscribe duplicate manifests of the whole cargo and all of the passengers taken on board on such vessels, specifying in the cargo manifests the marks and numbers of packages, the port of destination

and names of the consignees, together with such further information as may be required, and in the passengers manifest the name, sex, age, residence, port of embarkation, and destination of all passengers, together with such further information as may be required. The master of the vessel shall deliver such manifests to the Collector of Customs or other authorized customs officer, before whom shall be sworn to the best of one's knowledge and belief, in respect to the cargo manifests, that the goods therein described, if foreign, were imported legally and that duties, taxes and other charges thereon have been paid or secured to be paid, and with respect to the passenger manifests, that the information therein contained is true and correct as to all passengers taken on board. Thereupon, retaining the duplicates, the Collector of Customs or customs officer, shall certify the same on the manifests, the original of which shall be returned to the master with a permit specifying thereon, generally, the landing on board of such vessel and the authorization to proceed to the port of destination.

SEC. 309. *Manifests Required Prior to Unloading at a Port of Entry.* – Upon arrival at a port of entry, a vessel engaged in the coastwise trade and prior to the unloading of any part of the cargo, the master shall deliver to the Collector or other proper customs official complete manifests of all the cargo and passengers brought into said port, together with the clearance manifests of cargo and passengers for said port granted or ports of entry from which said vessel may have cleared during the voyage.

SEC. 310. *Departure of Vessel Upon Detailed Manifest.* – The owner, agents or consignees of vessels are required to present the proper detailed manifest before departure of the vessel: *Provided, however,* That the Commissioner of Customs may, by regulation, permit a vessel to depart coastwise from a port of entry upon the filing of a general manifest by the master thereof.

TITLE IV
IMPORT CLEARANCE AND FORMALITIES
CHAPTER 1

GOODS DECLARATION

SEC. 400. *Articles to be Imported Only Through Customhouse.* – All articles imported into the Philippines shall be entered and/or cleared through a customhouse at a port of entry or may be admitted to a free zone, as the case may be.

SEC. 401. *Importations Subject to Goods Declaration.* – Unless otherwise provided for in this Act, all imported articles shall be subject to a formal or informal entry. Articles of a commercial nature, the Free on Board (FOB) or Free Carrier At (FCA) value of which is Fifty thousand pesos (P50,000.00) or less and personal and household effects or articles, not in commercial quantity, imported in passenger's baggage, mail or otherwise, for personal use, shall be cleared through an informal entry whenever duty, tax and other charges are collectible. All other articles shall be cleared through a formal entry.

The Commissioner may, for the protection of government revenue or when public interest demands, require a formal entry, regardless of value, whatever be the purpose and nature of the importation.

A formal goods declaration may be for immediate consumption or for customs bonded warehousing under warehousing bond, irrevocable domestic letter of credit, bank guarantee or other appropriate form of security allowed under customs regulations, customs transit and transshipment shall be covered by appropriate goods declaration, the formalities and conditions of which shall be governed by customs regulations.

All importations entered under formal entry shall be covered by a letter of credit or any verifiable commercial document evidencing payment or in

cases where there is no sale for export, by any commercial document indicating the commercial value of the article for customs purposes.

SEC. 402. *Entry of Article in Part for Consumption and in Part for Warehousing.* – Import entries of articles covered by one bill of lading or airway bill containing articles in part for consumption and in part for warehousing may be both entered simultaneously at the port of delivery, one for consumption and the other for warehousing.

Where an intent to export the articles is shown by the bill of lading and invoice, the whole or a part of a bill of lading (not less than one package) may be covered by goods declaration for transshipment. Articles under customs transit received at any port from another port in the Philippines may be entered at the port of delivery either for consumption or warehousing.

SEC. 403. *Form and Content of Goods Declaration.* – Goods declarations shall be in such form and in such number of copies as shall be prescribed by regulations. They shall contain the names of the importing vessel or aircraft, port of departure and date of arrival, the number and marks of packages, or the quantity, if in bulk, the nature and correct commodity description of the articles contained therein, and its value as set forth in a proper invoice to be presented in duplicate with the entry.

SEC. 404. *Formal Goods Declaration.* – Except in case of informal entry, no entry of imported article shall be effected until there shall have been submitted to the Collector a written declaration under penalties of falsification or perjury, in such form as shall be prescribed by the Commissioner, containing statements in substance as follows:

(a) That the entry delivered to the Collector contains a full account of the value or price of said articles, including subject of the entry;

(b) That the invoice and entry contain an accurate and faithful account of the value or price of the articles, including and specifying the value of all

containers or coverings, and other adjustments to the price actually paid or payable, and that nothing has been omitted therefrom or concealed whereby the government of the Republic of the Philippines might be defrauded of any part of the duties and taxes lawfully due on the articles;

(c) That, to the best of the declarant's information and belief, all the invoices and bills of lading relating to the articles are the only ones in existence relating to the importation in question and that they are in the state in which they were actually received by him; and

(d) That, to the best of the declarant's information and belief, the entries, invoices and bills of lading or airway bills, and the declaration thereon under penalties of falsification or perjury are in all respects genuine and true.

SEC. 405. *Description of Articles.* – The description of the articles in the import entry must be in sufficient detail to enable the articles to be identified both for tariff classification and statistical purposes, and if specifically classified in this Act in the tariff description of terms of the headings or subheadings of this Act and in the currency of the invoice, and in such other particulars necessary for the proper assessment and collection of duties and taxes in compliance with customs and related laws; and the quantity and values of each of the several classes of articles shall be separately declared according to their respective headings or subheadings and the totals of each heading or subheading shall be duly shown.

SEC. 406. *Commercial and Noncommercial Invoice.* – Contents of commercial invoice of articles imported in the Philippines shall in all cases set forth all the following:

- (a) The agreed price paid or payable for the goods;
- (b) The place where, the date when, and the person by whom and the person to whom the articles are sold or agreed to be sold, or if to be imported

otherwise than in pursuance of a purchase, the place from which shipped, the date when the person to whom and the person by whom they are shipped;

(c) All charges upon the articles itemized by name and amount when known to the seller or shipper; or all charges by name, including selling commission, insurance, freight, cost of cases, containers, coverings and packing, and all other adjustments to the price paid or payable, included in invoice prices when the amount for such charges are unknown to the seller or shipper;

(d) The port of entry to which the articles are destined;

(e) A detailed description of the articles according to the terms of the heading or subheadings, if specifically mentioned in this Act, otherwise the description must be in sufficient detail to enable the articles to be identified both for tariff classification and statistical purposes, indicating their correct commodity description, in customary terms or commercial designation, including the grade or quality, numbers, marks or symbols under which they are sold by the seller or manufacturer, together with the marks and number of the packages in which the articles are packed;

(f) The quantities in the weights and measures of the country or place from which the articles are shipped, and in the weights and measures used in this Act;

(g) The purchase price of each article in the currency of the purchase and in the unit of the quantity in which the articles were bought and sold in the place of country of exportation, if the articles are shipped in pursuance of a purchase or an agreement to purchase; and

(h) If the articles are shipped otherwise than in pursuance of the purchase or an agreement to purchase, the value of each article in the unit of quantity in which the articles are usually bought and sold, and in the currency in which the transactions are usually made, or, in the absence of such value, the

price in such currency which the manufacturer, seller, shipper or owner would have received, or was willing to receive, for such articles if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation.

Any other fact deemed necessary to the proper examination, valuation and classification of the articles as may be prescribed by regulations.

To the extent possible, the above requirements shall apply for goods on consignment, samples or donations covered by a *proforma* invoice, consignment invoice or any other noncommercial invoice.

SEC. 407. *Mode and Manner of Payment; Trade Terms.* – Subject to existing laws and rules on foreign currency exchange, the internationally accepted standards and practices on the mode of payment or remittance covering import and export transactions, including standards developed by international trading bodies such as the International Chamber of Commerce (ICC) on trading terms (INCOTERMS) and on international letters of credit such as the Uniform Customs and Practice for Documentary Credits (UCP), shall be recognized.

SEC. 408. *Request for Classification and Valuation Ruling.* – (a) As to Classification. – On any article imported or exported or intended to be imported or exported, an importer, exporter or any interested party may submit to the Tariff Commission a full description of the article including its component materials, functions, uses or other information, and request it in writing for a tariff classification ruling to indicate the heading under which the article is or shall be dutiable, and the Tariff Commission shall comply with such requests within thirty (30) days from receipt thereof if it is satisfied that the application is made in good faith, in which case classification of the article in question upon the particular importation involved shall be made according to the heading indicated by the Tariff Commission: *Provided, however,* That

such rulings of the Tariff Commission on commodity classification shall be binding upon the Bureau, unless the Secretary of Finance shall rule otherwise. Any tariff classification ruling/s as may be issued by the Tariff Commission shall remain valid and effective unless such tariff classification rulings are amended by the Tariff Commission in cases of amendments to the Harmonized System or the Association of Southeast Asian Nations (ASEAN) Harmonized Tariff Nomenclature, or for any other reason as the Tariff Commission may see fit.

When an article is subject to a classification dispute upon actual importation or exportation, the importer, the exporter or the Bureau may submit the classification dispute for a tariff classification ruling, without prejudice to application of Section 424 on tentative liquidation and release of imported or exported article.

Any applicant party who is aggrieved by, or is not satisfied with, the result of any ruling, the applicant party may file before the Tariff Commission pursuant to this section, a verified motion for reconsideration within thirty (30) days from receipt of such ruling based on the sole ground of new information.

(b) As to Value. – Upon written application of owner or his agent, the Collector shall issue a valuation ruling on any issue relating to the application of the rules on customs valuation within thirty (30) days from receipt thereof: *Provided*, That the ruling shall be given only if the Collector is satisfied after questioning the importer and examining all pertinent papers presented, such as invoices, contracts of sale or purchase, orders and other commercial documents, that the importer is acting in good faith and is unable to determine the proper application of a specific customs valuation rule/principle or set of rules/principles to the specific importation.

SEC. 409. *Forwarding of Cargo and Remains of Wrecked Vessel or Aircraft.* – When the vessels or aircrafts are wrecked within the Philippines,

application must be made to the Commissioner by the original owners or consignees of the cargo, or by the underwriters, in case of abandonment to them, for permission to forward the articles saved from the wreck to the ports of destination, in other conveyance, without entry at the customhouse in the district in which the article was cast ashore or unladen. On receipt of such permission, the articles may be so forwarded with particular manifests thereof, duly certified by customs officials in charge of the articles.

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

SEC. 410. *Derelicts and Articles from Abandoned Wrecks.* – Derelicts and all articles picked at sea or recovered from abandoned wrecks, shall be taken possession of in the port or district where they shall first arrive, and be retained in the custody of the Collector, and if not claimed and entered, as the case may be, by the owner, underwriter or salvor, shall be dealt with as unclaimed property.

When such articles are brought into port by lighters or other craft, each of such vessels shall make entry by manifest of her cargo.

If, in case of wreck, there be no customhouse at the point where the vessel or aircraft is wrecked, the coastguard or customs official nearest the scene of the wreck shall render all possible aid in saving the crew and cargo of the vessel or aircraft, taking charge of the articles saved and giving immediate notice to the Collector or the nearest customhouse.

In order to prevent any attempt to defraud the revenue, the Collector shall be represented at the salvage of the cargo by customs officers detailed for

that purpose, who shall examine and countersign the inventory made of such cargo and receive a copy of the same.

Derelicts and articles salvaged from foreign vessels or aircrafts picked up at sea, or taken from wreck is *prima facie* dutiable and may be entered for consumption or warehousing. If claimed to be of Philippine production, and consequently free, proof must be adduced as in ordinary cases of re-importation of articles. Foreign articles landed from a vessel or aircraft in distress is dutiable if sold or disposed of in the Philippines.

Before any article which has been taken from a recent wreck shall be admitted to entry, the same shall be appraised, and the owner or importer shall have the same right to appeal as in ordinary importation.

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

CHAPTER 2

EXAMINATION OF GOODS

SEC. 411. *Conditions for Examination.* – Physical examination of goods import and export shall be conducted when:

(a) The surveyor's seal on the container has been tampered with or broken or the container shows signs of having been opened or having its identity changed;

(b) The container is leaking or damaged;

(c) The number, weight and nature of packages indicated in the customs goods declaration and supporting documents differ from that in the manifest;

(d) The shipment is covered by alert/hold order issued pursuant to existing orders;

(e) The importer disagrees with the findings as contained in the surveyor's report;

(f) The articles are imported through air freight where the Commissioner or Collector has knowledge that there is a variance between the declared and true quantity, measurement, weight and tariff classification;

(g) Imported goods and goods for export are electronically selected for physical examination;

(h) When physical examination is necessary to resolve issues involving tariff classification, customs valuation and rules of origin; and

(i) Directed by the Commissioner of Customs on account of derogatory information.

The Bureau may adopt nonintrusive inspection based on internationally accepted standards subject to random checking, post entry audit, and under certain conditions to be prescribed by rules and regulations. The Commissioner of Customs may exempt from examination importations belonging to importers accredited as an Authorized Economic Operator (AEO) or under any existing trade facilitation program.

SEC. 412. *Determination of Weight and Quantity.* – Where articles are customarily contained in packing, packages, or receptacles of uniform or similar character, it shall be the duty of the Commissioner, from time to time, to ascertain by tests the weight and quantity of such articles, and the weight of the packing, packages or receptacles thereof, respectively, in which the same are customarily imported, and upon such ascertainment, to prescribe rules for estimating the dutiable weight or quantity thereof, and thereafter such articles, imported in such customary packing, packages or receptacles shall be entered, and the duties thereon levied and collected, upon the bases of such estimated dutiable weight or quantity: *Provided*, That if the importer, consignee or agent shall be dissatisfied, with such estimated dutiable weight or quantity, he shall file with the Collector, prior to the delivery of the packages designated for examination, a written specification of his objections thereto, or if the

Collector shall have reasons to doubt the exactness of the prescribed weight or quantity in any instance, it shall be the duty of the Collector to cause such weights or quantities to be ascertained.

SEC. 413. *Duties of Customs Officer Tasked to Examine, Classify and Ascertain the Value of Imported Articles.* – The customs officer tasked to examine, classify and ascertain the value of 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 import entry as regards their quantity, measurement, weight, and tariff classification and not imported contrary to law. The customs officer may submit sample to the laboratory for analysis when feasible to do so and when such analysis is necessary for the proper classification, valuation, and/or clearance into the Philippines of imported articles.

Likewise, the customs officer shall determine the unit of quantity and measurement in which they are usually bought and sold, and ascertain the value of the imported articles in accordance with Section 700 of this Act.

Failure on the part of the customs officer to comply with his duties shall subject him to the penalties prescribed under Title XV of this Act.

SEC. 414. *Proceedings and Report of Customs Officers.* – Customs officers shall, by all reasonable ways and means, ascertain and determine the value or price of the articles based on the mode of valuation as prescribed in this Act and shall report in writing on the face of the goods declaration or the electronic form the value so determined.

Customs officers shall reflect the examination findings on the goods declaration or the electronic form in tariff and such terms as will enable the Collector to pass upon the valuation and classification of the same, which

valuation and classification shall be subject to approval or modification, and shall note thereon the measurements and quantities, and any disagreement with the declaration.

SEC. 415. *Examination of Samples.* – Customs officers shall see to it that representative samples taken during examination shall be properly receipted for and retained within a reasonable period of time. The quantity and value of the samples taken shall be noted in the specified box of the import entry or electronic form. Such samples shall be duly labeled as will definitely identify them with the importation for which they are taken.

SEC. 416. *Readjustment of Valuation, Classification or Return.* – Such valuation, classification or return as finally passed upon and approved or modified by the Collector shall not be altered or modified in any manner, except:

(a) Within one (1) year after payment of the duties, taxes and other charges, upon statement of error in conformity with Section 909 of this Act, approved by the Collector;

(b) Within fifteen (15) days after such payment upon request for reclassification addressed to the Commissioner by the Collector, if the classification is deemed incorrect;

(c) Upon filing of timely protest based on value and/or classification addressed to the Collector by the interested party, if the latter should be dissatisfied with the assessment; and

(d) Upon demand by the Commissioner of Customs after the completion of a post clearance audit pursuant to the provisions of this Act.

SEC. 417. *Delivery of Articles to Holder of Bill of Lading or Airway Bill.* – A Collector who makes a delivery of a shipment, upon the surrender of the bill of lading or airway bill, to person who by the terms thereof appears to be the consignee or lawful holder of the bill shall not be liable on account of

any defect in the bill or irregularity in its negotiation, unless he has notice of the same.

SEC. 418. *Delivery of Articles Without Production of Bill of Lading or Airway Bill.* – No Collector shall deliver imported articles to any person without the surrender by such person of the bill of lading or airway bill covering the article, except on written order of the carrier or agent of the importing vessel or aircraft, in which case neither the government nor the Collector shall be held liable for any damage arising from wrongful delivery of the articles: *Provided, however,* That where delivery of articles is made against such written order of the carrier or agent of the importing vessel or aircraft, the Collector may, for customs purposes, require the production of an exact copy of the bill of lading therefor.

SEC. 419. *Delivery Upon Order of Importer.* – An importer of record may authorize delivery to another person by writing upon the face of the warehouse withdrawal entry the orders to that effect. Such authority to deliver the article entered for warehousing in accordance with Section 805 shall not relieve the importer and the security posted from liability for the payment of the duties, taxes and other charges due on the said article unless the person to whom the delivery was authorized to be made assumes such liability by complying with the requirements of the abovementioned section.

SEC. 420. *Withholding Delivery Pending Satisfaction of Lien.* – When the Collector is duly notified in writing of a lien for freight, lighterage or general average upon any imported articles in custody, the Collector shall withhold the delivery of the same until satisfied that the claim has been paid or secured. In case of a disagreement, as to the amount due between the party filing the lien and the importer regarding the amount of the freight and lighterage based upon the quantity or weights of the articles imported, the Collector may deliver the articles upon payment of the freight and lighterage

due on the quantity or weight actually landed as shown by the return of the proper official or by other means to his satisfaction.

SEC. 421. *Customs Expenses Constituting Charges on Articles.* – All expenses incurred by the customs service for the handling or storage of articles and other necessary operations in connection therewith, or incident to seizure, shall be chargeable against the articles, and shall constitute a lien thereon. The cost of examination shall at all times be for the account of the importer or exporter.

SEC. 422. *Fine or Surcharge on Articles.* – No article which is liable for any fine or surcharge imposed under the customs and tariff laws shall be delivered until the same shall have been paid or secured by cash deposit, irrevocable domestic letter of credit, bank guarantee or bond.

CHAPTER 3

ASSESSMENT AND LIQUIDATION

SEC. 423. *Liquidation and Record of Goods Declaration.* – If the Collector shall approve the returns of the customs officer and the report of the weights, gauge or quantity, the liquidation shall be made on the face of the declaration showing the particulars thereof, initiated by the customs assessor, approved by the chief customs assessor, and recorded in the record of liquidations. A daily record of all goods declarations liquidated shall be posted in public corridor of the customhouse, name of the vessel or aircraft, the port of arrival, the date of arrival, the name of the importer, and the serial number and the date of the entry. The daily record must also be kept by the Collector of all additional duties, taxes and other charges found upon liquidation, and notice shall promptly be sent to the interested parties.

SEC. 424. *Tentative Liquidation.* – If to determine the exact duties, taxes and other charges due under the law in whole or in part some future action is required, the liquidation shall be deemed to be tentative as to the item

or items affected and shall, to that extent, be subject to future and final readjustment and settlement within a period of three (3) months from the date of tentative liquidation which may be extended on justifiable grounds for a period not to exceed three (3) months. The entry in such case shall be stamped tentative liquidation.

The District Collector shall allow the release of importation under tentative liquidation and where appropriate, upon the posting of sufficient security to cover the applicable duties and taxes as provided under Section 122 of this Act.

SEC. 425. *Finality of Liquidation.* – When articles have been entered and passed free of duty or final adjustments of duties made, with subsequent delivery, such entry and passage free of duty or settlements of duties will, after the expiration of three (3) years from the date of the final payment of duties, in the absence of fraud, protest or post clearance audit pursuant to the provisions of this Act, be final and conclusive upon all parties, unless the liquidation of the goods declaration was merely tentative.

SEC. 426. *Treatment of Fractions in the Liquidation.* – In determining the total amount of taxes, surcharges, and/or other charges to be paid on goods declaration, a fraction of a peso less than fifty centavos shall be disregarded, and a fraction of a peso amounting to fifty centavos or more shall be considered as one peso.

In case of overpayment or, underpayment of duties, taxes, surcharges and/or other charges entries, where the amount involved is less than ten pesos, no refund or collection shall be made.

CHAPTER 4

SPECIAL PROCEDURES

SEC. 427. *Travellers and Passenger Baggage.* – Customs shall provide simplified customs procedure, based on international agreements and

customs best practices, for traveler and baggage processing including the means of transport.

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

SEC. 428. *Postal Mails.* – Postal items or mails shall mean letter-post and parcels, as described in international practices and agreements, such as the Acts of the Universal Postal Union (AUPU) currently in force, when carried by or for postal services.

The clearance of postal items or mails, including the collection of the applicable duties and taxes on such items or goods, shall be effected quickly using a simplified procedure.

When all the information required by the customs are available from the special declaration form for postal items as provided in the AUPU or similar international agreements, the form and supporting documents shall be the goods declaration, except in the case of:

- (a) Goods having a value exceeding the amount required for the filing of a goods declaration as determined by the Commissioner of Customs;
- (b) Goods which are subject to prohibitions or restrictions or to export duties and taxes;
- (c) Goods the exportation of which must be certified; and
- (d) Imported goods intended to be placed under a customs procedure other than clearance for home use.

In these cases, a separate goods declaration shall be required.

SEC. 429. *Relief Consignments.* – When there is declaration of a state of calamity, clearance of relief consignments shall be a matter of priority and subject to a simplified customs procedure. The Bureau shall provide for:

- (a) Lodging of a simplified goods declaration or of a provisional or incomplete goods declaration subject to completion of the declaration within a specified period;
- (b) Lodging and registering or checking of the goods declaration and supporting documents prior to the arrival of the goods, and their release upon arrival;
- (c) Clearance outside the designated hours of business or away from customs offices and the waiver of any charges in this respect; and
- (d) Examination and/or sampling of goods only in exceptional circumstances.

The Secretary of Finance, upon the recommendation of the Commissioner of Customs, shall provide rules and regulations to carry out this provision.

TITLE V

EXPORT CLEARANCE AND FORMALITIES

CHAPTER 1

EXPORT CLEARANCE AND DECLARATION

SEC. 500. *Export Goods Declaration.* – All articles exported from the Philippines, whether subject to export duty or not, shall be declared through a competent customs office. Export declaration shall be in such form as prescribed by regulations. It shall be signed by the person making the declaration and shall contain the number and marks of packages, or the quantity, if in bulk, the nature and correct commodity description of the articles contained therein, and the value thereof.

The description of the articles in the export declaration must be in sufficient detail to enable the articles to be identified both for tariff classification and statistical purposes, and in the tariff description of terms of the headings or subheadings of this Act.

SEC. 501. *Lodgement and Processing of Export Declaration.* – The Bureau shall promulgate rules and regulations to allow manual and electronic lodgement and processing of the export declaration.

SEC. 502. *Export Product to Conform to Standard Grades.* – A Collector shall not permit products to be exported to a foreign port for which standard grades or marking establishments such as “for domestic sale only” have been established by the government through laws or regulations, unless the shipment conforms to the requirements of law or regulations relative to the export of such products.

TITLE VI

CUSTOMS TRANSIT AND TRANSSHIPMENT

CHAPTER 1

CUSTOMS TRANSIT

SEC. 600. *Customs Transit in the Customs Territory.* – The Bureau shall allow articles to be transported under customs transit in the customs territory:

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

Articles being carried under customs transit shall not be subject to the payment of duties and taxes: *Provided*, That the conditions laid down by the Bureau are complied with and that any security and/or insurance required has been furnished. The Bureau shall specify the persons who shall be responsible for compliance with the obligations incurred under customs transit, in

particular for ensuring that the goods are presented intact at the office of destination in accordance with the conditions imposed.

Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the goods declaration for customs transit and this acceptance shall be noted on the document. The Bureau shall accept as part of the goods declaration for customs transit any commercial or transport document for the consignment concerned which meets all the customs requirements. This acceptance shall be noted on the document. Customs at the office of departure shall take all necessary action to enable the office of destination to identify the consignment and to detect any unauthorized interference.

Transfer of the articles from one means of transport to another shall be allowed without customs authorization: *Provided*, That any customs seal or fastening is not broken or interfered with. Failure to follow a prescribed itinerary or to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the customs are satisfied that all other requirements have been met.

SEC. 601. *Bonding of Carrier Transporting Articles Under the Preceding Section.* – A carrier engaged in conveying imported articles for transit under the preceding section from a port of importation to other ports shall give security in the nature of a general transportation bond, in a sum not less than Fifty thousand pesos (P50,000.00) conditioned that the carrier shall transport and deliver without delay, and in accordance with law and regulations, to the Collector at the port of destination all articles delivered to such carrier and that all proper charges and expenses incurred by the customs authorities or at their instance by reason of transfer shall be duly paid.

SEC. 602. *Entry for Transit to Another Port.* – Articles entered for transit to other ports of the Philippines may be transported under sufficient

security, upon proper examination as may be necessary, and consigned to the Collector at the port of destination, who will allow entry to be made at his port.

Articles received at any port from another port of the Philippines on a transit permit may be entered at the port of delivery either for consumption or warehousing. Articles entered into free zones as defined in Title VIII, Chapter 3 of this Act shall be covered by a transit permit upon admission into free zones.

CHAPTER 2

CUSTOMS TRANSSHIPMENT

SEC. 603. *Customs Transshipment.* – Goods admitted for transshipment shall not be subject to the payment of duties and taxes, provided the conditions laid down by the customs are complied with. Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the goods declaration for transshipment and this acceptance shall be noted on the document.

The exportation of goods declared for transshipment shall be made within thirty (30) days from arrival of the carrier from the foreign territory, subject to extension for valid reasons and upon approval of the Commissioner of Customs.

SEC. 604. *Articles Entered for Outright Exportation.* – Where an intent to export the articles is shown by the bill of lading, airway bill, invoice, manifest, or other satisfactory evidence, the whole or a part of a bill (not less than one (1) package) may be entered for immediate exportation under a transshipment bond.

Unless it shall appear by the bill of lading, airway bill, invoice, manifest, or other satisfactory evidence, that articles arriving in the Philippines are destined for transshipment, no exportation thereof will be permitted.

Upon the exportation of the articles and the production of any evidence of exportation, the transshipment bond shall be released.

SEC. 605. *Transshipment of Tobacco Products.* – Notwithstanding the provisions of Republic Act No. 7227, creating the Subic Special Economic and Freeport Zone, Republic Act No. 7922, creating the Cagayan Special Economic Zone, Republic Act No. 7903, creating the Zamboanga City Special Economic Zone, and Republic Act No. 9728, creating the Bataan Freeport Area and such other freeports as may be hereafter established or created by law, all importations of alcohol and tobacco products intended for transshipment to a foreign port shall not be subject to the imposition and payment of duties and taxes, provided that all of the following conditions are satisfied:

(a) The foreign port of destination shall be clearly indicated in the cargo manifest accompanying the shipment;

(b) The shipment shall not be unloaded or transported to any Philippine port of entry prior to the transport thereof to the foreign port of destination as indicated in the cargo manifest;

(c) The tobacco products intended for transshipment shall be transported abroad within thirty (30) days from the date of arrival thereof in the Philippine territory;

(d) A guarantee in the amount equivalent to not less than the amount of internal revenue taxes and duties otherwise due from shipment, shall be filed with the Bureau, in a form and validity period acceptable to the Commissioner of Customs;

(e) Submission to the Bureau of any document satisfactorily showing that the transshipped products have actually arrived and have been unloaded in the foreign port of destination such as Certificate of Landing, customs declaration or its equivalent document filed at the port of destination; and

(f) The cancellation or release of such guarantee shall be effected only upon submission of completed documents showing proof of actual shipment of the tobacco products to, and receipt thereof by, the intended foreign port of destination. Failure to submit the liquidation documents within the period to be prescribed by the Bureau or to transport the shipment to the intended foreign port of destination within the prescribed fifteen (15)-day period shall cause the automatic forfeiture by the Bureau of the guarantee.

TITLE VII

IMPORT DUTY AND TAX

CHAPTER 1

BASIS OF IMPORT DUTY

SEC. 700. *Basis of Dutiable Value, Transaction Value System.* –

(A) Method One. – Transaction Value. – The dutiable value of an imported article subject to an *ad valorem* rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding:

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

- (a) Commissions and brokerage fees (except buying commissions);
- (b) Cost of containers;
- (c) The cost of packing, whether for labour or materials;

(d) The value, apportioned as appropriate, of the following goods and services: materials, components, parts and similar items incorporated in the imported goods; tools; dies; moulds and similar items used in the production of imported goods; materials consumed in the production of the imported goods; and engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or

indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods; and

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

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

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

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

(5) The cost of insurance.

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

No addition shall be made to the price actually paid or payable in determining the customs value except as provided in this section: *Provided*, That method one shall not be used in determining the dutiable value of imported goods if:

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

- (i) Are imposed or required by law or by Philippine authorities;
- (ii) Limit the geographical area in which the goods may be resold; or
- (iii) Do not substantially affect the value of the goods.

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

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

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

- (i) They are officers or directors of one another's businesses;
- (ii) They are legally recognized partners in business;
- (iii) There exists an employer-employee relationship between them;
- (iv) Any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stock or shares of both seller and buyer;
- (v) One of them directly or indirectly controls the other;
- (vi) Both of them are directly or indirectly controlled by a third person;
- (vii) Together they directly or indirectly control a third person; or
- (viii) They are members of the same family, including those related by affinity or consanguinity up to the fourth civil degree.

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

(B) Method Two. – Transaction Value of Identical Goods. – Where the dutiable value cannot be determined under method one, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. "Identical goods" shall mean goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in

appearances shall not preclude goods otherwise conforming to the definition from being regarded as identical.

(C) Method Three. – Transaction Value of Similar Goods. – Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. “Similar goods” shall mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark shall be among the factors to be considered in determining whether goods are similar. If the dutiable value still cannot be determined through the successive application of the two immediately preceding methods, the dutiable value shall be determined under method four or, when the dutiable value still cannot be determined under that method, under method five, except that, at the request of the importer, the order of application of methods four and five shall be reversed: *Provided, however,* That if the Commissioner of Customs deems that there are real difficulties in determining the dutiable value using method five, the Commissioner of Customs may refuse such a request, in which event the dutiable value shall be determined under method four, if it can be so determined.

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

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

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

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

(4) The customs duties and other national taxes payable in the Philippines by reason of the importation or sale of the goods. If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued in the Philippines in the conditions as imported, the customs value shall, subject to the conditions set forth in the preceding paragraph hereof, be based on the unit price at which the imported goods or identical or similar imported goods sold in the Philippines in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of ninety (90) days after such importation.

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

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

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

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

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

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

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

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

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

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

- (1) The selling price in the Philippines of goods produced in the Philippines;
- (2) A system that provides for the acceptance for customs purposes of the higher of two alternative values;
- (3) The price of goods in the domestic market of the country of exportation;
- (4) The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with method five hereof;
- (5) The price of goods for export to a country other than the Philippines;
- (6) Minimum customs values; or
- (7) Arbitrary or fictitious values.

If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon the filing of a sufficient guarantee in the form of a surety bond, a deposit, cash or some other appropriate instrument in an amount equivalent to the imposable duties and taxes on the imported goods in question conditioned upon the payment of customs duties and taxes for which the imported goods may be liable: *Provided, however,* That goods, the importation of which is prohibited by law shall not be released under any circumstance whatsoever.

Nothing in this section shall be construed as restricting or calling into question the right of the Collector of Customs to ascertain the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and where the customs

administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the customs administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of subsection (A) hereof.

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

SEC. 701. *Basis of Dutiable Weight.* – On articles that are subject to specific rate of duty, based on weight, the duty shall be ascertained as follows:

(a) When articles are dutiable by the gross weight, the dutiable weight thereof shall be the weight of same, together with the weight of all containers, packages, holders and packing, of any kind, in which said articles are contained, held or packed at the time of importation;

(b) When articles are dutiable by the legal weight, the dutiable weight thereof shall be the weight of same, together with the weight of the immediate containers, holders and/or packing in which such articles are usually contained, held or packed at the time of importation and/or, when imported in retail

packages, at the time of their sale to the public in usual retail quantities: *Provided*, That when articles are packed in single container, the weight of the latter shall be included in the legal weight;

(c) When articles are dutiable by the net weight, the dutiable weight thereof shall be only the actual weight of the articles at the time of importation, excluding the weight of the immediate and all other containers, holders or packing in which such articles are contained, held or packed;

(d) Articles affixed to cardboard, cards, paper, wood or similar common material shall be dutiable together with the weight of such holders; and

(e) When a single package contains imported articles dutiable according to different weights, or to weight and value, the common exterior receptacles shall be prorated and the different proportions thereof treated in accordance with the provisions of this Act as to the dutiability or non-dutiability of such packing.

SEC. 702. *Exchange Rate*. – For the assessment and collection of import duty upon imported articles and for other purposes, the value and prices thereof quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange or value specified or published, from time to time, by the BSP.

CHAPTER 2

SPECIAL DUTIES AND TRADE REMEDY MEASURES

SEC. 703. *Marking Duty*. – (a) *Marking of Articles*. – Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the Philippines shall be marked in any official language of the Philippines and in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or container)

will permit in such manner as to indicate to an ultimate purchaser in the Philippines the name of the country of origin of the article. The Commissioner of Customs shall, with the approval of the Secretary of Finance, issue rules and regulations to:

- (1) Determine the character of words and phrases or abbreviation thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling or by any other reasonable method, and in a conspicuous place on the article or container where the marking shall appear;
- (2) Require the addition of other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser; and
- (3) Authorize the exception of any article from the requirements of marking if:
 - (i) Such article is incapable of being marked;
 - (ii) Such article cannot be marked prior to shipment to the Philippines without injury;
 - (iii) Such article cannot be marked prior to shipment to the Philippines, except at an expense economically prohibitive of its importation;
 - (iv) The marking of a container of such article will reasonably indicate the origin of such article;
 - (v) Such article is a crude substance;
 - (vi) Such article is imported for use by the importer and not intended for sale in its imported or any other form;

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

(viii) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

(ix) Such article was produced more than twenty (20) years prior to its importation into the Philippines; or

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

(b) Marking of Containers. – Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Commissioner of Customs with the approval of the department head, shall be marked in such manner as to indicate to an ultimate purchaser in the Philippines the name of the country of origin of such article in any official language of the Philippines, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a).

(c) Marking Duty for Failure to Mark. – If at the time of importation any article (or its container, as provided in subsection (b) hereof), is not marked in accordance with the requirements of this section,

there shall be levied, collected and paid upon such article a marking
duty of five percent

(5%) *ad valorem*, which shall be deemed to have accrued at the time of importation, except when such article is exported or destroyed under customs supervision and prior to the final liquidation of the corresponding entry.

(d) *Delivery Withheld Until Marked.* – No imported article held in customs custody for inspection, examination or appraisal shall be delivered until such article or its containers, whether released or not from customs custody, shall have been marked in accordance with the requirements of this section and until the amount of duty estimated to be payable under subsection (c) of this section shall have been deposited. Nothing in this section shall be construed as excepting any article or its container from the particular requirements of marking provided for in any provision of law.

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

SEC. 704. *Dumping Duty.* – The provisions of Republic Act No. 8752, otherwise known as “An Act Providing the Rules for the Imposition of an Anti-Dumping Duty, Amending for the Purpose Section 301, Part 2, Title II, Book 1 of the Tariff and Customs Code of the Philippines, as Amended by Republic Act No. 7843, and for Other Purposes” are hereby adopted.

SEC. 705. *Safeguard Duty.* – The provisions of Republic Act No. 8800, otherwise known as “An Act Protecting Local Industries by Providing Safeguard Measures to be Undertaken in Response to Increased Imports and Providing Penalties for Violation Thereof” and its implementing rules are hereby adopted.

SEC. 706. *Countervailing Duty.* – The provisions of Republic Act No. 8751, otherwise known as “An Act Strengthening the Mechanisms for the Imposition of Countervailing Duties on Imported Subsidized Products, Commodities or Articles of Commerce in Order to Protect Domestic Industries from Unfair Trade Competition, Amending for the Purpose Section 302, Part 2, Title II, Book 1 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, as Amended” are hereby adopted.

SEC. 707. *Special Duty, Discrimination by Foreign Countries.* – (a) The President, when he finds that the public interest will be served thereby, shall by proclamation specify and declare new or additional duties in an amount not exceeding one hundred percent (100%) *ad valorem* upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country.

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

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

(b) If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the Philippines, as aforesaid, but has, after the issuance of a proclamation as authorized in

subsection (a) of this section, maintained or increased its said discrimination against the commerce of the Philippines, the President is hereby authorized, if

deemed consistent with the interests of the Philippines and of public interest, to issue a further proclamation directing that such product of said country or such article imported in its vessels be excluded from importation into the Philippines.

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

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

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

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

TITLE VIII

TAX AND DUTY DEFERMENT, PREFERENCE AND EXEMPTION

CHAPTER 1

CONDITIONALLY FREE IMPORTATION

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

- (a) Aquatic products (e.g. fishes, crustaceans, mollusks, marine animals, seaweeds, fish oil, roe), caught or gathered by fishing vessels of Philippine registry: *Provided,* That they are imported in such vessels or in crafts attached thereto: *Provided, further,* That they have not been landed in any foreign territory or, if so landed, they have been landed solely for transshipment without having been advanced in condition;
- (b) Equipment for use in the salvage of vessels or aircrafts, not available locally, upon identification and the giving of a bond in an

amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the import entry: *Provided*, That the Collector of Customs may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding six (6) months from the expiration of the original period;

- (c) Cost of repairs, excluding the value of the article used, made in foreign countries upon vessels or aircraft documented, registered or licensed in the Philippines, upon proof satisfactory to the Collector of Customs: (1) that adequate facilities for such repairs are not afforded in the Philippines; or (2) that such vessels or aircrafts, while in the regular course of her voyage or flight, was compelled by stress of weather or other casualty to put into a foreign port to make such repairs in order to secure the safety, seaworthiness or airworthiness of the vessel or aircraft to enable her to reach her port of destination;
- (d) Articles brought into the Philippines for repair, processing or reconditioning to be re-exported upon completion of the repair, processing or reconditioning: *Provided*, That the Collector of Customs shall require the giving of a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the goods declaration;
- (e) Medals, badges, cups and other small articles bestowed as trophies or prizes, or those received or accepted as honorary distinction;

- (f) Personal and household effects belonging to residents of the Philippines returning from abroad including jewelry, precious stones and other articles of luxury which were formally declared and listed before departure and identified under oath before the Collector of Customs when exported from the Philippines by such returning residents upon their departure therefrom or during their stay abroad; personal and household effects including wearing apparel, articles of personal adornment (except luxury items), toilet articles, instruments related to one's profession and analogous personal or household effects, excluding vehicles, watercrafts, aircrafts and animals purchased in foreign countries by residents of the Philippines which were necessary, appropriate and normally used for their comfort and convenience during their stay abroad, accompanying them on their return, or arriving within a reasonable time which, barring unforeseen and fortuitous events, in no case shall exceed sixty (60) days after the owner's return: *Provided*, That the personal and household effects shall neither be in commercial quantities nor intended for barter, sale or for hire and that the total dutiable value of which shall not exceed Fifty thousand pesos (P50,000.00): *Provided, further*, That the returning resident has not previously availed of the privilege under this section within three hundred sixty-five (365) days prior to his arrival: *Provided, finally*, That a fifty percent (50%) *ad valorem* duty across the board shall be levied and collected on the personal and household effects (except luxury items) in excess of Fifty thousand pesos (P50,000.00). For purposes of this section, the phrase "returning residents" shall refer to nationals who have stayed in a foreign country for a period of at least six (6) months.

In addition to the privileges granted under the immediately preceding paragraph, returning overseas contract workers shall have the privilege to bring in, duty and tax free, used home appliances, limited to one of every kind once in a given calendar year accompanying them on their return, or arriving within a reasonable time which, barring unforeseen and fortuitous events, in no case shall exceed sixty (60) days after the owner's return upon presentation of their original passport at the port of entry: *Provided*, That any excess of Fifty thousand pesos (P50,000.00) for personal and household effects and/or of the number of duty and tax-free appliances as provided for under this section, shall be subject to the corresponding duties and taxes provided under this Act. For purposes of this section, the following words/phrases shall be understood to mean:

(1) Overseas Contract Workers. Holders of valid passports duly issued by the Department of Foreign Affairs and certified by the Department of Labor and Employment/Philippine Overseas Employment Agency for overseas employment purposes. It covers all nationals working in a foreign country under employment contracts including Middle East contract workers, entertainers, domestic helpers, regardless of their employment status in the foreign country; and

(2) Calendar Year. Shall cover the period from January 1 to December 31;

(g) Wearing apparel, articles of personal adornment, toilet articles, portable tools and instrument, theatrical costumes and similar effects accompanying travelers, or tourists, or arriving within a reasonable time before or after their arrival in the Philippines, which are necessary and appropriate for the wear and use of such persons according to the nature of the journey, their comfort and convenience: *Provided*, That this exemption shall not apply to

articles intended for other persons or for barter, sale or hire: *Provided, further,* That the Collector of Customs may, in his discretion, require either a written commitment or a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within three (3) months from the date of acceptance of the goods declaration: *Provided, finally,* That the Collector of Customs may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding three (3) months from the expiration of the original period.

Personal and household effects and vehicles belonging to foreign consultants and experts hired by, and/or rendering service to, the government, and their staff or personnel and families, accompanying them or arriving within a reasonable time before or after their arrival in the Philippines, in quantities and of the kind necessary and suitable to the profession, rank or position of the person importing them, for their own use and not for barter, sale or hire: *Provided,* That the Collector of Customs may in his discretion require either a written commitment or a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges upon the articles classified under this subsection; conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months after the expiration of their term or contract: *Provided, finally,* That the Collector of Customs may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding six (6) months from the expiration of the original period;

- (h) Professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal

and household effects belonging to persons coming to settle in the Philippines or Filipinos and/or their families and descendants who are now residents or citizens of other countries, such parties hereinafter referred to as overseas Filipinos, in quantities and of the class suitable to the profession, rank or position of the persons importing them, for their own use and not for barter or sale, accompanying such persons, or arriving within a reasonable time, in the discretion of the Collector of Customs, upon the production of evidence satisfactory to the Collector of Customs that such persons are actually coming to settle in the Philippines, that change of residence was *bona fide* and that the privilege of free entry was never granted to them before or that such person qualifies under the provisions of Letters of Instruction 105, 163 and 210, and that the articles are brought from their former place of abode, shall be exempt from the payment of customs, duties and taxes: *Provided*, That vehicles, vessels, aircrafts, machineries and other similar articles for use in manufacture, shall not be classified hereunder;

- (i) Articles used exclusively for public entertainment, and for display in public expositions, or for exhibition or competition for prizes, and devices for projecting pictures and parts and appurtenances thereof, upon identification, examination, and appraisal and the giving of a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the goods declaration: *Provided*, That the Collector of Customs may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding six (6)

months from the expiration of the original period; and technical and scientific films when imported by technical, cultural and scientific institutions, and not to be exhibited for profit: *Provided, further,* That if any of the films is exhibited for profit, the proceeds therefrom shall be subject to confiscation, in addition to the penalty provided under this Act;

- (j) Articles brought by foreign film producers directly and exclusively used for making or recording motion picture films on location in the Philippines, upon their identification, examination and appraisal and the giving of a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the goods declaration, unless extended by the Collector of Customs for another six (6) months; photographic and cinematographic films, underdeveloped, exposed outside the Philippines by resident Filipino citizens or by producing companies of Philippine registry where the principal actors and artists employed for the production are Filipinos, upon affidavit by the importer and identification that such exposed films are the same films previously exported from the Philippines. As used in this paragraph, the terms “actors” and “artists” include the persons operating the photographic camera or other photographic and sound recording apparatus by which the film is made;
- (k) Importations for the official use of foreign embassies, legations and other agencies of foreign governments: *Provided,* That those foreign countries accord like privileges to corresponding agencies of the Philippines. Articles imported for the personal or family use

of the members and attaches of foreign embassies, legations, consular officers and other representatives of foreign governments: *Provided, further,* That such privilege shall be accorded under special agreements between the Philippines and the countries which they represent: *Provided, finally,* That the privilege may be granted only upon specific instructions of the Secretary of Finance in each instance which shall be issued only upon request of the Department of Foreign Affairs;

- (l) Imported articles donated to, or for the account of, any duly registered relief organization, not operated for profit, for free distribution among the needy, upon certification by the Department of Social Welfare and Development (DSWD) or the Department of Education (DepED), as the case may be;
- (m) Containers, holders and other similar receptacles of any material including kraft paper bags for locally manufactured cement for export, including corrugated boxes for bananas, pineapples and other fresh fruits for export, except other containers made of paper, paperboard and textile fabrics, which are of such character as to be readily identifiable and/or reusable for shipment or transportation of goods shall be delivered to the importer thereof upon identification, examination and appraisal and the giving of a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges within six (6) months from the date of acceptance of the import entry;
- (n) Supplies which are necessary for the reasonable requirements of the vessel or aircraft in her voyage or flight outside the Philippines, including articles transferred from a bonded warehouse in any collection district to any vessel or aircraft engaged in foreign trade,

for use or consumption of the passengers or its crew on board such vessel or aircrafts as sea or air stores; or article purchased abroad for sale on board a vessel or aircraft as saloon stores or air store supplies: *Provided*, That any surplus or excess of such vessel or aircraft supplies arriving from foreign ports or airports shall be dutiable;

- (o) Articles and salvage from vessels recovered after a period of two (2) years from the date of filing the marine protest or the time when the vessel was wrecked or abandoned, or parts of a foreign vessel or her equipment, wrecked or abandoned in Philippine waters or elsewhere: *Provided*, That articles and salvage recovered within the said period of two (2) years shall be dutiable;
- (p) Coffins or urns containing human remains, bones or ashes, used personal and household effects (not merchandise) of the deceased person, except vehicles, the value of which does not exceed Fifty thousand pesos (P50,000.00), upon identification as such;
- (q) Samples of the kind, in such quantity and of such dimension or construction as to render them unsaleable or of no appreciable commercial value; models not adapted for practical use; and samples of medicines, properly marked "sample-sale punishable by law", for the purpose of introducing a new article in the Philippine market and imported only once in a quantity sufficient for such purpose by a person duly registered and identified to be engaged in that trade: *Provided*, That importations under this subsection shall be previously authorized by the Secretary of Finance: *Provided, further*, That importation of sample medicine shall be previously authorized by the Secretary of Health that such samples are new

medicines not available in the Philippines: *Provided, finally*, That samples not previously authorized and/or properly marked in accordance with this section shall be levied the corresponding tariff duty. Commercial samples, except those that are not readily and easily identifiable as in the case of precious and semi-precious stones, cut or uncut, and jewelry set with precious or semi-precious stones, the value of any single importation of which does not exceed Fifty thousand pesos (P50,000.00) upon the giving of a bond in an amount equal to the ascertained duties, taxes and other charges thereon, conditioned for the exportation of said samples within six (6) months from the date of the acceptance of the goods declaration or in default thereof, the payment of the corresponding duties, taxes and other charges. If the value of any single consignment of such commercial samples exceeds Fifty thousand pesos (P50,000.00), the importer thereof may select any portion of same not exceeding in value of Fifty thousand pesos (P50,000.00) for entry under the provision of this subsection, and the excess of the consignment may be entered in bond, or for consumption, as the importer may elect;

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

Bureau of Animal Industry: *Provided, furthermore,* That certificate of such record, and pedigree of such animal duly authenticated by the proper custodian of such book of record, shall be produced and submitted to the Collector of Customs, together with affidavit of the owner or importer, that such animal is the animal described in said certificate of record and pedigree: *Provided, finally,* That the animals and plants are certified by the National Economic and Development Authority as necessary for economic development;

- (s) Economic, technical, vocational, scientific, philosophical, historical and cultural books and/or publications: *Provided,* That those which may have already been imported but pending release by the Bureau at the effectivity of this Act may still enjoy the privilege herein provided upon certification by the DepED that such imported books and/or publications are for economic, technical, vocational, scientific, philosophical, historical or cultural purposes or that the same are educational, scientific or cultural materials covered by the International Agreement on Importation of Educational Scientific and Cultural Materials signed by the President of the Philippines on August 2, 1952, or other agreements binding upon the Philippines. Educational, scientific and cultural materials covered by international agreements or commitments binding upon the Philippine government so certified by the DepED. Bibles, missals, prayer books, Koran, Ahadith and other religious books of similar nature and extracts therefrom, hymnal and hymns for religious uses;
- (t) Philippine articles previously exported from the Philippines and returned without having been advanced in value or improved in condition by any process of manufacture or other means, and upon which no drawback or bounty has been allowed, including

instruments and implements, tools of trade, machinery and equipment, used abroad by Filipino citizens in the pursuit of their business, occupation or profession; and foreign articles previously imported when returned after having been exported and loaned for use temporarily abroad solely for exhibition, testing and experimentation, for scientific or educational purposes; and foreign containers previously imported which have been used in packing exported Philippine articles and returned empty if imported by or for the account of the person or institution who exported them from the Philippines and not for sale, barter or hire subject to identification: *Provided*, That any Philippine article falling under this subsection upon which drawback or bounty has been allowed shall, upon re-importation thereof, be subject to a duty under this subsection equal to the amount of such drawback or bounty;

- (u) Aircraft, equipment and machinery, spare parts commissary and catering supplies, aviation gas, fuel and oil, whether crude or refined, and such other articles or supplies imported by and for the use of scheduled airlines operating under congressional franchise: *Provided*, That such articles or supplies are not locally available in reasonable quantity, quality and price and are necessary or incidental for the proper operation of the scheduled airline importing the same;
- (v) Machineries, equipment, tools for production, plans to convert mineral ores into saleable form, spare parts, supplies, materials, accessories, explosives, chemicals, and transportation and communications facilities imported by and for the use of new mines and old mines which resume operations, when certified to as such by the Secretary of the Department of Environment and Natural

Resources, upon the recommendation of the Director of Mines, for a period ending five (5) years from the first date of actual commercial production of saleable mineral products: *Provided*, That such articles are not locally available in reasonable quantity, quality and price and are necessary or incidental in the proper operation of the mine; and aircrafts imported by agro-industrial companies to be used by them in their agriculture and industrial operations or activities, spare parts and accessories thereof, when certified to as such by the Secretary of the Department of Agriculture or the Secretary of the Department of Trade and Industry, as the case may be;

- (w) Spare parts of vessels or aircraft of foreign registry engaged in foreign trade when brought into the Philippines exclusively as replacements or for the emergency repair thereof, upon proof satisfactory to the Collector of Customs that such spare parts shall be utilized to secure the safety, seaworthiness or airworthiness of the vessel or aircraft, to enable it to continue its voyage or flight;
- (x) Articles of easy identification exported from the Philippines for repair, processing or reconditioning and subsequently reimported upon proof satisfactory to the Collector of Customs that such articles is not capable of being repaired, processed or reconditioned locally: *Provided*, That the applicable duty rate on the article shall be imposed on the cost of repair, processing or reconditioning on such article; and
- (y) Trailer chassis when imported by shipping companies for their exclusive use in handling containerized cargo, upon posting a bond in an amount equal to one hundred percent (100%) the ascertained duties, taxes and other charges due thereon to cover a period of one

(1) year from the date of acceptance of the entry, which period, for meritorious reasons, may be extended by the Commissioner of Customs from year to year, subject to the following conditions:

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

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

(3) That they shall be deposited in the Customs zone when not in use; and

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

The provisions of Section 105 of Presidential Decree No. 34, dated October 27, 1972, to the contrary notwithstanding any officer or employee of the Department of Foreign Affairs, including any attaché, civil or military or member of his staff assigned to a Philippine diplomatic mission abroad by his Department or any similar officer or employee assigned to a Philippine consular office abroad, or any Armed Forces of the Philippines (AFP) military personnel accorded assimilated diplomatic rank or duty abroad who is returning from a regular assignment abroad, for reassignment to his home office, or who dies, resigns, or is retired from the service, after the approval of this Act, shall be exempt from the payment of all duties and taxes on his personal and household effects, including one (1) motor car which must have been ordered or purchased prior to the receipt by the mission or consulate of his order of recall, and which must be registered in his name: *Provided, however,* That this exemption shall apply only to the value of the motor car and to the aggregate assessed value of said personal and household effects the latter not to exceed thirty percent (30%) of the total amount received by such officer

or employee in salary and allowances during his latest assignment abroad but not to exceed four (4) years: *Provided, further*, That this exemption shall not be availed of more than once every four (4) years: *Provided, finally*, That the officer or employee concerned must have served abroad for not less than two (2) years.

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

CHAPTER 2

CUSTOMS BONDED WAREHOUSE

SEC. 801. *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 warehouses for use as 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. 802. *Types of Warehouses.* – Warehouses may be classified as follows:

- (a) Public bonded warehouse;

- (b) Private bonded warehouse;
- (c) Manufacturing bonded warehouse;
- (d) Industry-specific Customs bonded warehouse;
- (e) Common Customs bonded warehouse; and
- (f) Container yard/container freight station.

Subject to consultation with the NEDA and the DTI, and oversight by Congress, and based on prevailing economic circumstance, the Commissioner may create other types of warehouses.

SEC. 803. *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, shed, yard or premises.

SEC. 804. *Establishment of 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, and the purpose for which the building is to be used.

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 and if found satisfactory, he 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 employees who shall be appointed in accordance with the civil service law, rules and regulations.

SEC. 805. *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 letter of credit, bank guarantee or bond equivalent to the amount of such duties, taxes and other charges conditioned upon the withdrawal of the articles within the period prescribed by Section 808 of this Act and for 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. 806. *Discontinuance of Warehouses.* – The use of any warehouse may be discontinued by the Collector at any time when conditions so warrant, or, in case of private warehouse, upon receipt of written request to that effect from the operator thereof: *Provided*, That all the requirements of the law and regulations have been complied with by said operator. 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 after 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. 807. *Withdrawal of Articles from Bonded Warehouse.* – Articles entered under irrevocable domestic letter of credit, bank guarantee or bond may be withdrawn at any time for consumption, for transportation to another port, for exportation or for delivery on board a vessel or aircraft engaged in foreign trade for use on board such vessel or aircraft as sea stores or aircraft stores after liquidation of the entry. The withdrawal must be made by a person or firm duly authorized by the former, whose authority must appear in writing upon the face of the withdrawal entry.

SEC. 808. *Period of Storage in Bonded Warehouse.* – Articles duly entered for warehousing may remain in bonded warehouses for a maximum

period of one (1) year from the time of arrival at the port of entry. For perishable articles as defined by regulation, the storage period shall be three (3) months from the date of arrival, extendible upon written request to another three (3) months for valid reasons. Articles not withdrawn at the expiration of the prescribed period shall be deemed as abandoned as provided under Section 1029 of this Act.

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

SEC. 809. *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 bonded manufacturing warehouses under such rules and regulations as the Commissioner of Customs with the approval of the Secretary 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.

SEC. 810. *Exemption from Duty.* – The following articles shall be exempted from duty:

- (a) Whenever articles manufactured in any bonded manufacturing warehouse established under the provisions of the preceding section shall be exported directly therefrom or shall be duly laden for immediate exportation under the supervision of the proper official, such articles shall be exempt from duty; and

- (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 of Customs, 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 subcontractors 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 one (1) year or such storage period as may be established pursuant to Section 808 of this Act, from date of such transfer or conveyance into the bonded manufacturing warehouse, which period may for valid reasons be further extended for not more than three (3) months 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 No. 3137.

SEC. 811. *Procedure for Withdrawal.* – Articles received into such bonded manufacturing warehouse or articles manufactured therein may be

withdrawn or removed therefrom for direct shipment and for immediate exportation in bond under the supervision of the proper customs officer, who shall certify to such shipment and exportation, or lading for immediate exportation as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, in the name of the vessel or aircraft: *Provided*, That the waste and byproducts incident to the process of manufacture in said bonded warehouse may be withdrawn for domestic consumption upon payment of duty equal to the duty which would be assessed and collected pursuant to law as if such waste or byproducts were imported from a foreign country: *Provided, further*, That all waste materials may be disposed under government supervision. All labors performed and services rendered under these provisions shall be under the supervision of a proper customs officer and at the expense of the manufacturer.

SEC. 812. *Verification by the Commissioner.* – A careful account shall be kept by the Collector of all articles delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officer-in-charge, shall be made by the manufacturer containing a detailed statement of all imported articles used by him in the manufacture of the exported articles.

All documents, books and records of accounts concerning the operation of any bonded manufacturing warehouse shall, upon demand, be made available to the Collector or his representative for examination and/or audit.

Before commencing business, the operator of any bonded manufacturing warehouse shall file with the Commissioner a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

CHAPTER 3

FREE ZONES (PEZA ZONES AND FREEPORT ZONES)

SEC. 813. *Free Zones.* – Unless otherwise provided by law, goods admitted into free zones, such as special economic zones registered with PEZA under Republic Act No. 7916, duly chartered or legislated freeports under Republic Act No. 9400, the Aurora Special Economic Zone under Republic Act No. 9490, the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922, the Zamboanga City Special Economic Zone under Republic Act No. 7903, and Freeport Area of Bataan under Republic Act No. 9728, shall not be subject to duty and tax.

Entry into such free zones, whether directly or through the customs territory, shall be covered by the necessary goods declaration for transit and withdrawal from free zones into the customs territory shall be covered by the necessary goods declaration for consumption or for warehousing.

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

CHAPTER 4

STORES

SEC. 814. *Stores for Consumption.* – “Stores for consumption” means:

(a) Articles intended for consumption by the passengers and the crew on board vessels or aircrafts, whether or not sold; and

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

SEC. 815. *Stores to be Taken Away.* – “Stores to be taken away” means articles for sale to the passengers and the crew of vessels and aircrafts

with a view to being landed, which are either on board upon arrival or are taken on board during the stay in the customs territory of vessels and aircrafts used, or intended to be used, in international traffic for the transport of persons for remuneration or for the industrial or commercial transport of goods, whether or not for remuneration.

SEC. 816. *Exemption from Duties and Taxes of Stores.* – Customs treatment of stores should apply equally, regardless of the country of registration or ownership of vessels or aircraft. Stores which are carried in a vessel or aircraft arriving in the customs territory shall be exempted from import duties and taxes provided that they remain on board. Stores for consumption by the passengers and the crew imported as provisions on international express vessels or aircrafts should be exempted from import duties and taxes: *Provided, That:*

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

Stores for consumption necessary for the operation and maintenance of vessels and aircrafts which are on board these means of transport arriving in the customs territory shall be exempted from import duties and taxes: *Provided, That* they remain on board while these means of transport are in the customs territory.

The Bureau shall allow the issue of stores for consumption on board during the stay of a vessel in the customs territory in such quantities as the customs deem reasonable having regard to the number of the passengers and the crew and to the length of the stay of the vessel in the customs territory. The Bureau should allow the issue of stores for consumption on board by the crew

while the vessel is undergoing repairs in a dock or shipyard: *Provided*, That the stay in a dock or shipyard is considered to be of reasonable duration.

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

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

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

- (1) Stores in such quantities as the Bureau deems reasonable having regard to the number of the passengers and the crew, to the length of the voyage or flight and to any quantities of such stores already on board; and
- (2) Stores for consumption necessary for their operation and maintenance, in such quantities as are deemed reasonable for operation and maintenance during the voyage or flight having regard also to any quantity of such stores already on board. Replenishment of stores exempted from duties and taxes shall be allowed for vessels and aircrafts which have arrived in the customs territory and which need to replenish their stores for the journey to their final destination in the customs territory. The Bureau shall allow stores for consumption supplied to vessels and aircrafts during their stay in the customs territory to be issued under the

same conditions as are applicable in this chapter to stores for consumption held on board arriving vessels and aircrafts.

SEC. 817. *Goods Declaration for Stores.* – When a declaration concerning stores on board vessels arriving in the customs territory is required by the Bureau, the information required shall be kept to the minimum necessary for the purpose of customs control.

The quantities of stores which are allowed by the customs to be issued from the stores held on board should be recorded on the declaration concerning stores produced to the customs upon arrival of the vessel in the customs territory and no separate form should be required to be lodged with the Bureau in respect thereof. The quantities of stores which are supplied to vessels during their stay in the customs territory should be recorded on any declaration concerning stores which has been required by customs.

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

Stores on board vessels and aircrafts having arrived in the customs territory shall be allowed:

- (a) To be cleared for home use or to be placed under another customs procedure, subject to compliance with the conditions and formalities applicable in each case; or
- (b) Subject to prior authorization by the Bureau, to be transferred respectively to other vessels or aircrafts in international traffic.

TITLE IX

DRAWBACK AND REFUND

CHAPTER 1

DRAWBACK

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

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

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

(1) The actual use of the imported materials in the production of manufacture of the article exported with their quantity, value and amount of duties paid thereon, having been established;

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

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

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

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

(d) For every application of a drawback, there shall be paid to and collected by the Bureau as filing, processing and supervision fees the sum of Five hundred pesos (P500.00) which amount may be increased or decreased when the need arises by the Secretary of Finance upon the recommendation of the Commissioner of Customs.

(e) Payment of Partial Drawbacks. – The Secretary of Finance may, upon the recommendation of the Commissioner of Customs, promulgate rules and regulations allowing partial payments of drawbacks under this section.

(f) Payment of the Drawbacks. – Claims for refund or tax credit eligible for such benefits shall be paid or granted by the Bureau to claimants within sixty (60) days after receipt of properly accomplished claims: *Provided*, That a registered enterprise under Republic Act No. 5186, otherwise known as the Investment Incentives Act, or Republic Act No. 6135, otherwise known as the Export Incentives Act of 1970, which has previously enjoyed tax credit

based on customs duties paid on imported raw materials and supplies, shall not be entitled to drawback under this section, with respect to the same importation subsequently processed and re-exported: *Provided, further,* That if as a result of the refund or tax credit by way of drawback of customs duties, there would necessarily result a corresponding refund or credit of internal revenue taxes on the same importation, the Collector of Customs shall likewise certify the same to the Commissioner of Customs who shall cause the said refund or tax credit of internal revenue taxes to be paid, refunded or credited in favor of the importer, with advice to the Commissioner of Internal Revenue.

SEC. 901. *Prescription of Drawback Claim.* – All claims and application for drawback shall prescribe if the claim is not filed within one (1) year from the date of importation in case of paragraphs (a) and (b) of the preceding section and within one (1) year from the date of exportation in case of paragraph (3) of the preceding section.

CHAPTER 2

ABATEMENT AND REFUND

SEC. 902. *Abatement for Damage Incurred During Voyage.* – Except as herein specially provided, no abatement of duties shall be made on account of damage incurred or deterioration suffered during the voyage of importation; and duties will be assessed on the actual quantity imported, as shown by the return of weighers, gauges, measurers, examiners or appraisers, as the case may be.

SEC. 903. *Abatement or Refund of Duty on Missing Package.* – When any package or packages appearing on the manifest or bill of lading are missing, an abatement or refund of the duty thereon and shall be made if it is certified, under penalties of falsification or perjury, by the importer or consignee, and upon production of proof satisfactory to the Collector that the

package or packages in question have not been imported into the Philippines contrary to law.

SEC. 904. *Abatement or Refund for Deficiency in Contents of Packages.* – If, upon opening of any package, a deficiency or absence of any article or of part of the contents thereof as called for by the invoice shall be found to exist, such deficiency shall be certified, under penalties of falsification or perjury, to the Collector by the examiner and appraiser; and upon the production of proof satisfactory to the Collector showing that the shortage occurred before the arrival of the article in the Philippines, the proper abatement or refund of the duty shall be made.

SEC. 905. *Abatement or Refund of Duties on Articles Lost or Destroyed After Arrival.* – A Collector may abate or refund the amount of duties accruing or paid, and may likewise make a corresponding allowance on the irrevocable domestic letter of credit, bank guarantee, or the entry bond or other document upon satisfactory proof of injury, destruction, or loss by theft, fire or other causes of any article as follows:

- (a) While within the limits of any port of entry prior to unloading under the Bureau's supervision;
- (b) While remaining in customs custody after unloading;
- (c) While in transit under irrevocable domestic letter of credit, bank guarantee or bond with formal entry in accordance with Section 401 of this Act from the port of entry to any port in the Philippines; and
- (d) While released under irrevocable domestic letter of credit, bank guarantee or bond for export except in case of loss by theft.

SEC. 906. *Abatement and Refund of Defective Articles.* – Under conditions to be set by the Commissioner of Customs with the approval of the Secretary of Finance, refund shall be granted in respect of imported or exported goods which are found to have been defective or otherwise not in

accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions:

(a) The goods have not been worked, repaired or used in the country of importation, and are re-exported within a reasonable time; and

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

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

As an alternative to re-exportation or re-importation, the goods may be expressly abandoned or destroyed or rendered commercially valueless under customs control, as the Bureau may decide. Such abandonment or destruction shall not entail any cost to the Bureau.

SEC. 907. *Abatement of Duty on Dead or Injured Animals.* – Where it is certified, under penalties of falsification or perjury, and upon production of proof satisfactory to the Collector that an animal which is the subject of importation dies or suffers injury before arrival, or while in customs custody, the duty shall be correspondingly abated by him, provide the carcass of any dead animal remaining on board or in customs custody be removed in the manner required by the Collector and at the expense of the importer.

SEC. 908. *Investigation Required in Case of Abatements and Refunds.*
– The Collector shall, in all cases of allowances, abatement or refunds of duties, cause an examination or report in writing to be made as to any fact discovered during such examination which tends to account for the discrepancy or difference and cause the corresponding adjustment to be made on the goods declaration.

SEC. 909. *Correction of Errors.* – Refund of Excess Payments. – Manifest clerical errors made in an invoice or entry, errors in return of weight, measure and gauge, when duly certified to, under penalties of falsification or perjury, by the surveyor or examining official (when there are such officials at the port), and errors in the distribution of charges on invoices not involving any question of law and certified to, under penalties of falsification or perjury, by the examining customs officer, may be corrected in the computation of duties, if such errors be discovered before the payments of duties, or if discovered within one (1) year after the final liquidation, upon written request and notice of error from the importer, or upon statement of error certified by the Collector.

For the purpose of correcting errors specified in the next preceding paragraph, the Collector is authorized to reliquidate entries and collect additional charges, or to make refunds on statement of errors within the statutory time limit.

SEC. 910. *Claim for Refund of Duties and Taxes.* – All claims for refund of duties shall be made in writing and forwarded to the Collector to whom such duties are paid, who upon receipt of such claim, shall verify the same by the records of the office, and if found to be correct and in accordance with law, shall certify this to the Commissioner with his recommendation, together with all necessary papers and documents. Upon receipt by the Commissioner of such certified claim, he shall cause the same to be paid if found correct.

All claims and application for refund under this chapter shall prescribe if the properly accomplished claim is not filed within one (1) year from the date of importation.

TITLE X

ADMINISTRATIVE AND JUDICIAL PROCEDURES

CHAPTER 1

EXERCISE OF POLICE AUTHORITY

SEC. 1000. *Persons Having Police Authority.* – For the enforcement of the tariff and customs laws, the following persons are authorized to effect searches, seizures and arrests conformably with the provisions of said laws:

(a) Officials of the Bureau, district collectors, deputy collectors, police officers, agents, inspectors and guards of the Bureau;

(b) Officers and members of the AFP and national law enforcement agencies when individually deputized by the Commissioner of Customs;

(c) Officials of the BIR on all cases falling within the regular performance of their duties and individually deputized by the Commissioner of Internal Revenue, when the payment of internal revenue taxes is involved;

(d) Officers generally empowered by law to effect arrests and execute processes of courts, under the direction of the collectors; and

(e) Officers of other government agencies individually deputized by the Commissioner of Customs.

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

In order to avoid conflicts, and ensure coordination among these persons having authority to effect searches, seizures and arrests for the effective enforcement of, and conformably with customs and tariff laws, the Secretary of Finance shall, subject to the approval of the President of the Philippines, define the scope, areas covered, procedures and conditions governing the exercise of such police authority including custody and responsibility for the goods seized. The rules and regulations to this effect shall be furnished to all the government agencies and personnel concerned for their guidance and compliance, and shall be published in a newspaper of general circulation.

SEC. 1001. *Place Where Authority May be Exercised.* – All persons conferred with powers in the preceding section may exercise the same at any place within the jurisdiction of the Bureau. The Bureau shall exercise police authority in all areas defined in Section 300 of this Act. Port authorities shall provide authorized customs officials with unhampered access to all premises of the customs zone within their administrative jurisdiction.

The Bureau may exercise oversight police authority in economic or freeport zone subject to proper coordination with the governing authority of the zone. For this purpose, to ensure consistency and harmony in the formulation and implementation of customs policies affecting the zone, the Commissioner of Customs shall sit as an *ex officio* member of the board of directors of all economic or freeport zone authorities.

SEC. 1002. *Exercise of Power of Seizure and Arrest.* – It shall be the duty and within the power of a customs officer or person authorized as aforesaid, to seize any vessel, aircraft, cargo, article, animal or other movable property, when the same is subject to forfeiture or liable for any fine imposed under tariff and customs laws, rules and regulations, such power to be exercised in conformity with the law and the provisions of this Act: *Provided,* That the powers of the Bureau of Fisheries and Aquatic Resources to make arrests, searches and seizures as provided in Section 4, paragraphs “G” and “I” of Republic Act No. 3512 and the Philippine Coast Guard under Republic Act No. 5173 shall continue to be in force and effect.

SEC. 1003. *Duty of Officer or Official to Disclose Official Character.*
– It shall be the duty of any person exercising authority as aforesaid, upon being questioned at the time of the exercise thereof, to make known his official character as an officer or official of the government, and if his authority is derived from special authorization in writing to exhibit the same for inspection, if demanded.

SEC. 1004. *Authority to Require Assistance and Information.* – Any person exercising police authority under the customs and tariff laws may demand assistance and/or request information from any Philippine National Police, AFP and other national law enforcement agency personnel when such assistance and/or information shall be necessary to effect any search, seizure or arrest which may be lawfully made or attempted by him. It shall be the duty of any person upon whom such request is made to give such lawful assistance in the matter as may be required.

SEC. 1005. *Right of Customs Police Officer to Enter Inclosure.* – For the more effective discharge of one's official duties, any person exercising the powers herein conferred, may at any time enter, pass through, or search any land or inclosure or any warehouse, store or other building, not being principally used as a dwelling house.

A warehouse, store or other building or inclosure used for the keeping or storage of article does not become a dwelling house within the meaning hereof merely by reason of the fact that the person as watchman lives in the place, nor will the fact that his family stays there with him alter the case.

SEC. 1006. *Search of Dwelling House.* – A dwelling house may be entered and searched only upon warrant issued by a competent court upon sworn application showing probable cause and particularly describing the place to be searched and person or thing to be seized.

SEC. 1007. *Right to Search Vessels or Aircrafts and Persons or Articles Conveyed Therein.* – It shall be lawful for any official or person exercising police authority under the provisions of this Act to board any vessel or aircraft within the limits of any collection district, and to inspect, search and examine said vessel or aircraft and any trunk, package, box or envelope on board, and to search any person on board the said vessel or aircraft if under way, to use all necessary force to compel compliance; and if it shall appear that

any breach or violation of the customs and tariff laws of the Philippines has been committed whereby or in consequence of which such vessels or aircrafts, or the article, or any part thereof, on board of or imported by such vessel or aircraft, is liable to forfeiture to make seizure of the same or any part thereof.

The power of search hereinabove given shall extend to the removal of any false bottom, partition, bulkhead or other obstruction, so far as may be necessary to enable the officer to discover whether any dutiable or forfeitable articles may be concealed therein.

No proceeding herein shall give rise to any claim for the damage thereby caused to article or vessel or aircraft.

SEC. 1008. *Right to Search Vehicles, Animals and Persons.* – It shall also be lawful for exercising authority as aforesaid to open and examine any box, trunk, envelope or other container, wherever found when he has reasonable cause to suspect the presence therein of dutiable or prohibited article introduced into the Philippines contrary to law, and likewise to stop, search and examine any vehicle, animal or person reasonably suspected of holding or conveying such article as aforesaid.

SEC. 1009. *Search of Persons Arriving From Foreign Countries.* – Personal searches of travelers for purposes of customs control shall be carried out only when there are reasonable grounds to suspect the commission of smuggling or other customs and related offences. The examination and search of persons shall be conducted by persons of the same gender.

SEC. 1010. *Power to Inspect and Visit.* – The Commissioner of Customs and District Collector of Customs and/or any other customs officer, with the prior authorization in writing by the Commissioner, may demand evidence of payment of duties and taxes on foreign articles openly offered for sale, or kept in storage, and if no such evidence can be produced, such articles may be seized and subjected to forfeiture proceedings: *Provided, however,*

That during such proceedings the person or entity for whom such articles have been seized shall be given the opportunity to prove or show the source of such articles and the payment of duties and taxes thereon.

Provided, further, That when the warrant of seizure and detention has been issued and subsequent documents evidencing proper payment presented were found to be authentic and in order, the district collector shall, upon motion, quash or recall the warrant and cause the immediate release of the articles seized subject to clearance by the Commissioner: *Provided,* That the release thereof is not contrary to law.

CHAPTER 2

PAYMENT UNDER PROTEST

SEC. 1011. *Protest and Payment Upon Protest in Civil Matters.* – When a ruling or decision of the Collector is made whereby liability for duties, taxes, fees or other charges are determined, except the fixing of fines in seizure cases, the party adversely affected may protest such ruling or decision by presenting to the Collector at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question with the reasons therefore. No protest shall be considered unless payment of the amount due after final assessment has first been made and the corresponding docket fee, as provided for in Section 1400 hereof.

SEC. 1012. *Protest Exclusive Remedy in Protestable Case.* – In all cases subject to protest, the interested party who desires to have the action of the Collector reviewed, shall make a protest, otherwise the action of the Collector shall be final and conclusive, except as to matters collectible for manifest error in the manner prescribed in Section 909 hereof.

SEC. 1013. *Form and Scope of Protest.* – Every protest shall be filed in accordance with the prescribed rules and regulations promulgated under this

section and shall point out the particular decision or ruling of the Collector to which exception is taken or objection made, and shall indicate with reasonable precision the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the subject matter of a single adjustment or other independent transaction, but any number of issue may be raised in a protest with reference to the particular item or items constituting the subject matter of the protest.

SEC. 1014. *Samples to be Furnished by Protesting Parties.* – If the nature of the articles permit, importers filing protests involving questions of fact must, upon demand, supply the Collector with samples of the articles which are the subject matter of the protest. Such samples shall be verified by the customs officer who made the classification against which the protests are filed.

CHAPTER 3

SEIZURE AND FORFEITURE

SEC. 1015. *Warrant for Detention of Property-Cash Bond.* – The Collector of Customs shall have the exclusive authority to issue a warrant for the detention of the property upon determination of probable cause as provided for in this Act. In all seizure proceedings, the collector may, upon motion by the importer or consignee, and with the approval of the Commissioner of Customs, allow the release of seized articles for legitimate use under cash bond or sufficient security in the amount to be fixed by him, conditioned upon the payment of the appraised value of the article and/or any fine, expenses and costs which may be adjudged in the case: *Provided*, That there is no *prima facie* evidence of fraud in the importation of the articles: *Provided, further*, That the articles the importation of which is prohibited by law shall not be released under any circumstance whatsoever: *Provided, finally*, That 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 article.

SEC. 1016. *Report of Seizure to the Commissioner and the Chairman, Commission on Audit.* – When a seizure is made for any cause, the Collector of the district wherein the seizure is effected shall immediately make report thereof to the Commissioner and Chairman of the Commission on Audit.

SEC. 1017. *Notification to Owner or Importer.* – The Collector shall give the owner or importer of the property or the agent a written notice of the seizure and shall give him an opportunity to be heard in reference to the delinquency which was the occasion of such seizure.

For the purpose of giving such notice and of all other proceedings in the matter of such seizure, the importer, consignee or person holding the bill of lading shall be deemed to be the “owner” of the article included in the bill.

For the same purpose, “agent” shall be deemed to include not only any agent in fact of the owner of the seized property but also any person having responsible possession of the property at the time of the seizure, if the owner or the agent in fact is unknown or cannot be reached.

SEC. 1018. *Notification to Unknown Owner.* – Notice to an unknown owner shall be effected by posting for fifteen (15) days in the public corridor of the customhouse of the district in which the seizure was made, and, in the discretion of the Commissioner, by publication in a newspaper or by such other means as shall be considered desirable.

SEC. 1019. *Description, Valuation and Classification of Seized Property.* – The Collector shall also cause a list and particular description and/or classification of the property seized to be prepared and a valuation of the same, like, or similar article at its wholesale value in the local market in the usual wholesale quantities in the ordinary course of trade to be made by at least two (2) appraisers.

SEC. 1020. *Proceedings in Case of Property Belonging to Unknown Parties.* – If, within fifteen (15) days after the notification prescribed in Section 1018 of this Act, no owner or agent can be found or appears before the Collector, the latter shall declare the property forfeited in favor of the government to be sold at auction or disposed of in accordance with law.

SEC. 1021. *Settlement of Case by Payment of Fine or Redemption of Forfeited Property.* – Subject to the approval of the Commissioner, the District Collector may, while the case is still pending, except when there is fraud, accept the settlement of any seizure case: *Provided*, That the owner, importer, exporter, or consignee or agent shall offer to pay to the Collector a fine imposed upon the property, or in case of forfeiture, the owner, exporter, importer, or consignee or agent shall offer to pay one hundred fifty percent

(150%) of the landed cost of the seized article. The Commissioner may accept the settlement of any seizure case on appeal in the same manner.

Upon payment of the fine as determined by the district collector which shall be in amount equivalent to thirty percent (30%) of the landed cost of the seized imported article, the property shall be forthwith released and all liabilities which may or might attach to the property by virtue of the offense which was the occasion of the seizure and all liability which might have been incurred under any security given by the owner or agent in respect to such property shall thereupon be deemed to be discharged.

Settlement of any seizure case by payment of the fine or redemption of forfeited property shall not be allowed in any case where the importation is absolutely prohibited or where the release of the property would be contrary to law.

SEC. 1022. *Seizure of Vessel or Aircraft for Delinquency of Owner or Officer.* – When the owner, agent, master, pilot in command or other responsible officer of any vessel or aircraft becomes liable to be fined under the tariff and customs laws on account of a delinquency in the discharge of a duty with reference to the said vessel or aircraft, the vessel or aircraft itself may be seized and subjected to an administrative proceeding for the satisfaction of the fine for which such person would have been liable.

SEC. 1023. *Determination of Probable Cause and Burden of Proof in Seizure and/or Forfeiture Proceedings.* – The issuance of the Warrant of Seizure and Detention (WSD) shall be exclusive jurisdiction of the Collector of Customs. The Bureau's Legal Service, through the Prosecution and Litigation Division (PLD), may also determine the existence of probable cause for the issuance of WSD. For this purpose, the apprehending customs officer shall submit relevant reports and documents to the PLD within twenty-four (24) hours upon receipt of the foregoing documents. The PLD

shall then submit its finding(s) and/or recommendations to the Director of the Legal Service. On the basis thereof, the Director of the Legal Service shall recommend to the District Collector for the issuance or non-issuance of a WSD.

In all proceedings taken for the seizure and forfeiture of any vessel, vehicle, aircraft, animals or articles under this Act, the burden of proof shall lie upon the claimant.

SEC. 1024. *Rules and Regulations on Seizures and Forfeitures.* – The Commissioner of Customs shall promulgate rules and regulations governing the conduct of seizure and forfeiture proceedings under the preceding sections of this chapter.

CHAPTER 4

DECISION IN PROTEST AND SEIZURE CASES; APPEAL

SEC. 1025. *Decision or Action of Collector in Protest and Seizure Cases.* – When a protest in proper form is presented in a case where protest is required, the Collector shall issue an order for hearing within fifteen (15) days from receipt of the protest and hear the matter thus presented. Upon the termination of the hearing, the Collector shall render a decision within thirty (30) days, and if the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reliquidated if necessary.

In seizure cases, the Collector, after a hearing shall, in writing, make a declaration of forfeiture or fix the amount of the fine or take such other action as may be proper.

SEC. 1026. *Review of the Commissioner.* – The person aggrieved by the decision of a Collector in any matter presented upon protest or by an action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of the actions or decisions, file a written notice to the Collector with a copy furnished to the Commissioner of the intention to appeal

the action or decision of the Collector to the Commissioner. Thereupon the Collector shall forthwith transmit all the records of proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to the decision made: *Provided*, That when an appeal is filed beyond the period herein prescribed, the same shall be deemed dismissed.

If in any seizure proceeding, the Collector renders a decision adverse to the government, such decision shall be automatically reviewed by the Commissioner and the records of the case shall be elevated within five (5) days from the promulgation of the decision. The Commissioner shall review a decision on the automatic appeal within thirty (30) days from receipt of the records of the case. When no decision is rendered or the decision involves imported articles whose appraised value is Ten million pesos (P10,000,000.00) or more, such decision shall be deemed automatically appealed to the Secretary of Finance and the records of the proceedings shall be elevated within five (5) days after the lapse of the thirty (30)-day period: *Provided*, That if the decision of the Commissioner or of the Collector under appeal, as the case may be, is affirmed by the Secretary of Finance, or if within thirty (30) days from receipt of the proceedings by the Secretary of Finance, no decision is rendered, the decision of the Commissioner, or of the Collector under appeal, as the case may be, shall become final and executory.

SEC. 1027. *Notice of Decision of the Commissioner.* – Notice of the decision of the Commissioner shall be given to the party by whom the case was brought for review, and in seizure cases such notice shall be effected by personal service if practicable.

SEC. 1028. *Supervisory Authority of the Commissioner and the Secretary of Finance in Certain Cases.* – If any case involving the assessment of duties, the Collector renders a decision adverse to the government, such

decision shall be automatically elevated to, and reviewed by, the Commissioner; and if the Collector's decision would be affirmed by the Commissioner, such decision shall be automatically elevated to, and be finally reviewed by, the Secretary of Finance: *Provided, however,* That if within thirty (30) days from receipt of the record of the case by the Commissioner or by the Secretary of Finance, as the case may be, no decision is rendered by either of them, the decision under review shall be final and executory: *Provided, further,* That any party aggrieved by either the decision of the Commissioner or the Secretary of Finance may appeal to the Court of Tax Appeals within thirty (30) days from receipt of a copy of such decision.

CHAPTER 5

ABANDONMENT

SEC. 1029. *Abandonment, Kinds and Effects of.* – An imported article is deemed abandoned under any of the following circumstances:

(a) When the owner, importer or consignee of the imported article expressly signifies in writing to the Collector of Customs the intention to abandon;

(b) When after receipt of due notice the owner, importer, consignee or interested party fails to file an entry within fifteen (15) days from receipt thereof: *Provided,* That, the term entry shall include provisional or incomplete goods declaration deemed valid by the Bureau as provided in Section 112 of this Act and consistent with the provision of Section 424 hereof on tentative liquidation. For this purpose, it is the duty of the Collector of Customs to send the notice within five (5) days from the date of discharge of the last package;

(c) Having filed such entry an owner, importer, consignee or interested party fails to pay the assessed duties, taxes and other charges thereon within fifteen (15) days from receipt of the notice of assessment; or

(d) Having paid the assessed duties, taxes and other charges, fails to claim the goods within thirty (30) days. For this purpose, the arrastre or warehouse operator shall report said unclaimed goods to the Collector of Customs for disposition pursuant to the provisions of this Act.

The due notice requirement under this section shall be provided by the Bureau through automation or electronic notice such as email with the necessary electronic return receipts: *Provided*, That for nonregular importers notification shall be by registered mail or personal service. For this purpose, the accreditation of importers, exporters and other third parties shall include provision for mandatory receipt of electronic notices.

The period to file the goods declaration or claim the goods may, upon written request, be extended on valid grounds for fifteen (15) days: *Provided*, That the request is made before the expiration of the original period within which to file the goods declaration or claim the goods, as the case may be.

SEC. 1030. *Abandonment of Imported Articles.* – An abandoned article shall *ipso facto* be deemed the property of the government and shall be disposed of in accordance with the provisions of this Act. 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 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 Title XIV of this Act.

SEC. 1031. *Disposition of Imported Articles Remaining on Vessel After Time for Unlading.* – Imported articles remaining on board any vessel after the expiration of the period for discharge, and not reported for transshipment

to another port, may be unladen by the 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 thirty (30) days, from the date of discharge of the last article/package/container from the vessel or aircraft and shall be claimed within fifteen (15) days from the date of posting of the notice to claim in conspicuous places in the Bureau. If not entered or not claimed, it shall be disposed of in accordance with the provisions of this Act.

The period to file the goods declaration may, upon written request, be extended on valid grounds for another fifteen (15) days: *Provided*, That the request is filed prior to the expiration of the original period prescribed in this section.

CHAPTER 6

OTHER ADMINISTRATIVE PROCEEDINGS

SEC. 1032. *Authority of the Commissioner to Make Compromise.* – The Commissioner of Customs may compromise any case arising under this Act or other laws or part of laws enforced by the Bureau involving the collection of duties and taxes, imposition of fines, surcharges and forfeitures unless otherwise specified by law.

CHAPTER 7

CIVIL REMEDIES FOR THE COLLECTION OF DUTIES AND TAXES

SEC. 1033. *Remedies for the Collection of Duties, Taxes, Fines, Surcharges Including Damages, Interest and Other Charges of Delinquent Importers.* – The civil remedies for the collection of import duties, taxes, fees or charges and any increment thereto resulting from delinquency shall be:

(a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in rights to real property; and

(b) By civil or criminal action.

Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of such taxes: *Provided, however,* That the remedies of distraint and levy shall not be availed of where the amount of duties and tax involved is not more than Ten thousand pesos (P10,000.00).

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

SEC. 1034. *Constructive Distraint of the Property.* – To safeguard the interest of the government, the Commissioner of Customs may place under constructive distraint the property of a delinquent importer taxpayer who, in the opinion of the Commissioner, is retiring from any business subject to duty and tax, or is intending to leave the Philippines or to remove the property therefrom or to hide or conceal the property or to perform any act tending to obstruct the proceedings for collecting the duty and tax due or which may be due.

The constructive distraint of personal property shall be effected by requiring the taxpayer or any person having possession or control of such property to sign a receipt covering the property distrained and obligate to preserve the same intact and unaltered and not to dispose of the same in any manner whatsoever, without the express authority of the Commissioner.

In case the taxpayer or the person having the possession and control of the property sought to be placed under constructive distraint refuses or fails to sign the receipt herein referred to, the revenue officer effecting the constructive distraint shall proceed to prepare a list of such property and, in the presence of two (2) witnesses, leave a copy thereof in the premises where the property distrained is located, after which the said property shall be deemed to have been placed under constructive distraint.

SEC. 1035. *Summary Remedies.* – (a) Distraint of Personal Property. – Upon the failure of the person owing any delinquent duty and tax or delinquent revenue to pay the same at the time required, the Commissioner of Customs shall seize and distraint any goods, chattels or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons, in sufficient quantity to satisfy the duty, tax, or other charge, together with any increment thereto incident to delinquency, and the expenses of the distraint and the cost of the subsequent sale.

A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the distraining officer to the Commissioner of Customs: *Provided,* That the Commissioner or the duly authorized representative shall, subject to rules and regulations promulgated by the Secretary of Finance, upon the recommendation of the Commissioner, have the power to lift such order of distraint.

(b) Levy on Real Property. – After the expiration of the time required to pay the delinquent duty and tax or delinquent revenue as prescribed in this section, real property may be levied upon, before simultaneously or after the distraint of personal property belonging to the delinquent taxpayer. To this end, the Commissioner of Customs or the duly authorized representative shall prepare a duly authenticated certificate showing the name of the taxpayer and

the amounts of the duty and tax and penalty due. The certificate shall operate with the force of a legal execution throughout the Philippines.

Levy shall be effected by writing upon the certificate a description of the property upon which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the register of deeds for the province or city where the property is located and upon the delinquent taxpayer, or if absent from the Philippines, to the agent or the manager of the business in respect to which the liability arose, or if there be none, to the occupant of the property in question.

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

Within ten (10) days after receipt of the warrant, a report on any levy shall be submitted by the levying officer to the Commissioner: *Provided, however,* That the Commissioner or the duly authorized representative, subject to rules and regulations promulgated by the Secretary of Finance, upon the recommendation of the Commissioner of Customs, shall have the authority to lift warrants of levy issued in accordance with the provisions hereof.

Upon the recommendation of the Commissioner of Customs, the Secretary of Finance shall issue the necessary rules and regulations for the exercise of the summary remedies provided herein.

CHAPTER 8

JUDICIAL PROCEEDINGS

SEC. 1036. *Supervision and Control Over Criminal and Civil Proceedings.* – Civil and criminal actions and proceedings instituted in behalf

of the government under the authority of this Act or other law enforced by the Bureau shall be brought in the name of the government of the Philippines and shall be prosecuted and handled by customs lawyers with the assistance of the Department of Justice: *Provided*, That, the determination of the existence of probable cause and the subsequent filing of any criminal or civil case with the proper court against violators of this Act shall exclusively belong to the Department of Justice: *Provided, further*, That no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Act shall be filed in court without the approval of the Commissioner.

SEC. 1037. *Review by Court of Tax Appeals.* – The party aggrieved by the ruling of the Commissioner in any matter brought before him upon protest or by his action or ruling in any case of seizure may appeal to the Court of Tax Appeals, in the manner and within the period prescribed by law and regulations.

Unless an appeal is made to the Court of Tax Appeals in the manner and within the period prescribed by laws and regulations, the action or ruling of the Commissioner shall be final and conclusive.

CHAPTER 9

DISPOSITION OF PROPERTY IN CUSTOMS CUSTODY

SEC. 1038. *Property Subject to Sale.* – Property in customs custody shall be subject to sale under the conditions hereinafter provided:

- (a) Abandoned articles;
- (b) Articles entered under warehousing entry not withdrawn nor the duties and taxes paid thereon within the period described under Section 808 of this Act;
- (c) Seized property, other than contraband, after liability to sale shall have been established by proper administrative or judicial proceedings in conformity with the provisions of this Act; and

- (d) Any article subject to a valid lien for customs duties, taxes and other charges collectible by the Bureau, after the expiration of the period allowed for the satisfaction of the same.

SEC. 1039. *Place of Sale or Other Disposition of Property.* – Property within the purview of this Part of this Act shall be sold, or otherwise disposed of, upon the order of the Collector of the port where the property in question is found, unless the Commissioner shall direct its conveyance for such purpose to some other port.

SEC. 1040. *Mode of Sale.* – In the absence of any special provision, subject to the provisions of Section 1038 hereof, property subject to sale by the customs authorities shall be sold at public auction within thirty (30) days after ten (10) days notice of such sale shall have been conspicuously posted at port and such other advertisement as may appear to the Collector to be advisable in the particular case.

SEC. 1041. *Disposition of Proceeds.* – The following charges shall be paid from the proceeds of the disposition in the order named:

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

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

SEC. 1042. *Disposition of Proceeds from Auction Sale.* – Net proceeds arising from sales, after deducting the expenses, with reference to Section 1037 and in relation to Section 1040 hereof, shall be retained by the Bureau which shall be deemed to form part of its budget and be automatically appropriated, thereof, without prejudice to Section 117 of this Act.

SEC. 1043. *Disposition of Articles Liable to Deterioration.* – Perishable articles shall be deposited in any appropriate bonded warehouse; and, if not immediately entered for export or for transportation from the vessel or aircraft in which imported or entered for consumption and the duties and taxes paid thereon, such articles may be sold at auction, after such public notice, not exceeding three (3) days, as the necessities of the case permits.

When seizure shall be made of property which, in the opinion of the Collector, is liable to perish or be wasted or to depreciate greatly in value by keeping or which cannot be kept without great disproportionate expense, whether such property consists of live animals or of any article, the appraiser shall so certify in the appraisal, then the Collector may proceed to advertise and sell the same at auction, upon notice as shall be deemed to be reasonable.

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

SEC. 1044. *Disposition of Articles Unfit for Use or Sale or Injurious to Public Health.* – When any article, which in the opinion of the Collector, is a menace to public health, is seized or otherwise comes into the custody of the Bureau, the Collector of the port shall, if the matter is not disposable under the provisions relating to food and drugs, appoint three (3) members of the Board to examine the article. Whenever possible, one (1) member shall be a

representative of the Department of Health or of local health officer, and the two (2) others shall be responsible officials of the Bureau at least one of whom shall be an appraiser. Such Board shall examine the article, and if the same is found to be unfit or a menace to the public health, the Board shall so report in writing to the Collector, who shall forthwith order its destruction in such manner as the case may require.

Health authorities at port of entry shall collaborate with the collectors in such matters with reasonable dispatch.

SEC. 1045. *Disposition of Contraband.* – Article of prohibited importation or exportation, known as contraband, shall, in the absence of special provision, be dealt with as follows:

- (a) Dynamite, gunpowder, ammunition and other explosives, firearms and weapons of war and parts thereof, shall be turned over to the AFP;
- (b) If the article in question is highly dangerous to be kept or handled, it shall forthwith be destroyed;
- (c) Contraband coin or bullion, foreign currencies and negotiable instruments shall accrue to the Stabilization Fund of the Bangko Sentral ng Pilipinas subject to the payment of the expenses incident to seizure, including the reward to the informer, if any; and
- (d) Other contraband of commercial value and capable of legitimate use may be sold under such restrictions as will ensure its use for legitimate purposes only; but if the thing is unfit for use or the Collector is of the opinion that, if sold, it would be used for unlawful purposes, it shall be destroyed in such manner as the Collector shall direct.

SEC. 1046. *Disposition of Unsold Articles for Want of Bidders.* – Articles subject to sale at public auction by Customs authorities shall be sold at

a price not less than the wholesale value or price in the domestic market of these or similar articles in the usual wholesale quantities and in the ordinary course of trade as determined in accordance with Section 1019 of this Act.

When any article remains unsold in at least two (2) public biddings for want of bidders or for the lack of an acceptable bid, and the article is perishable and/or suitable for official use, then the Collector shall report the matter immediately to the Commissioner of Customs who may, subject to the approval of the Secretary of Finance, authorize the official use of that article by the Bureau to promote the intensive collection of taxes and/or to help prevent or suppress smuggling and other frauds upon the Customs, and if the article is not suitable for such use, then it may be channeled to the official use of other offices of the national government. If the article is suitable for shelter or consists of foodstuffs, clothing materials or medicines then that article shall be given to government charitable institutions through the Department of Social Welfare and Development.

If the article offered for sale is not suitable either for official use or charity, then it may be re-exported as government property through the Department of Trade and Industry or any other government entity through barter or sale. If the article cannot be disposed of as provided above, the Collector shall report the matter immediately to the Commissioner who may, subject to the approval of the Secretary of Finance, dispose of the article to the best advantage of the government in a negotiated private sale which shall be consummated in the presence of a representative of the Commission on Audit, in the manner provided for by this Act.

SEC. 1047. *Treatment of Dangerous Explosives.* – Gunpowder or other dangerous or explosive substances, including firecrackers, shall not be deposited in a bonded warehouse, and when not entered for immediate use, transportation or export, shall be subject to such disposition, in the discretion

of the Commissioner of Customs, consistent with public safety. Expenses incurred in such disposition shall constitute a lien on the articles and a charge against the owner.

SEC. 1048. *Disposition of Smuggled Articles.* – Smuggled articles, after liability to seizure or forfeiture shall have been established by proper administrative or judicial proceedings in conformity with the provisions of this Act, shall be disposed of as provided for in Section 1046 of this Act: *Provided,* That articles whose importation is prohibited under Section 132, subparagraphs (b), (c), (d), (e) and (j) shall, upon order to the Collector in writing, be burned or destroyed, in such manner as the case may require as to render them absolutely worthless, in the presence of a representative each from the Commission on Audit, Department of Justice, Bureau of Customs, and if possible, any representative of the private sector.

SEC. 1049. *Forfeiture Fund.* – All the net proceeds of sale of articles enumerated in Section 1038 of this Act except paragraph (a) on implied abandonment shall be deposited in an account to be known as Forfeiture Fund. In case of sale of goods that are impliedly abandoned, only the portion of the proceeds pertaining to duties, taxes and other charges due on the articles shall also be deposited in the Fund. The Fund shall be in the name of and to be managed by the Bureau which is hereby authorized, subject to the usual government accounting rules and regulations, to utilize the same for the following purposes:

- (a) To outsource, subject to the rules on government procurement established by law, the management of the inventory, safekeeping, maintenance and sale of articles enumerated in Section 1038 of this Act to private service providers: *Provided,* That the Bureau shall retain jurisdictional control and supervision over these articles as well as the operations of the service provider so contracted;

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

The Department of Finance and the Department of Budget and Management shall, upon the recommendation of the Bureau, issue a joint regulation to implement the provisions of this Act.

TITLE XI

POST CLEARANCE AUDIT

SEC. 1100. *Requirement to Keep Records.* – (a) All importers are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner of Customs and for a period of three (3) years from the date of importation, all records which:

(1) Pertains to any such activity, or to the information contained in the records required by this Title in connection with any such activity; and

(2) Are normally kept in the ordinary course of business.

(b) For purposes of the post entry audit and Section 1103 of this Title, the term importer includes the following:

(1) Importer-of-record or consignee, owner/declarant, or other party who:

(i) Imports articles into the Philippines or withdraws such articles into the Philippine customs territory for consumption or warehousing; files a claim for refund or drawback; or transport or stores such articles carried or held under bond; or

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

(2) Agent of any party described in paragraph (1); or

(3) Person whose activities require the filing of a goods declaration.

(c) Person ordering imported articles from a local importer/supplier in a domestic transaction shall be exempted from this section unless:

(1) The terms and conditions of the importation are controlled by the person placing the order; or

(2) The circumstances and nature of the relationship between the person placing the order and the importer/supplier are such that the former may be considered as the beneficial or true owner of the imported articles; or

(3) Assists were furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported articles.

All customs brokers and all other parties engaged in customs clearance and processing are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner of Customs and for a period of three (3) years from the date of importation copies of the abovementioned records covering transactions that they handle.

Locators or persons authorized to bring imported articles into free zones, such as the special economic zones and free ports, are required to keep subject records to the extent that their activities include in whole or in part the withdrawal of imported articles from said zones into the customs territory.

SEC. 1101. *Audit and Examination of Records.* – The importer and/or customs broker shall allow any customs officer authorized by the Bureau to enter during office hours any premises or place where the records referred to in the preceding section are kept to conduct audit examination, inspection, verification and/or investigation of those records described in the audit notice

with reasonable specificity, which may be relevant to such investigation or inquiry. For this purpose, a duly authorized officer shall have full and free access to all records which shall include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data, for the purpose of ascertaining the correctness of the declaration in the import entry and determining the liability of the importer for duties, taxes and other charges, including any fine and/or penalty, or otherwise for ensuring compliance with customs and tariff laws.

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

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

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

This is without prejudice to the criminal sanctions imposed by this Act and administrative sanctions that the Bureau may impose against contumacious

importers under existing laws and regulations including the authority to hold delivery or release of their imported articles.

SEC. 1102. *Power of the Commissioner to Obtain Information and Issue Summons.* – For the effective implementation of the post entry audit functions of the Bureau, the Commissioner of Customs is hereby authorized:

(a) To obtain on a regular basis from any person in addition to the person who is the subject of a post clearance audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or -controlled corporations, any information such as, but not limited to, costs and volume of production, receipts or sales and gross incomes of taxpayers, and the names, addresses, and financial statements of corporations, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures or consortia and registered partnerships, and their members, whose business operations or activities are directly or indirectly involved in the importation and/or exportation of imported articles or products manufactured from imported component materials;

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

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

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

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

SEC. 1103. *Failure to Pay Correct Duties and Taxes on Imported Goods.* – Any person who, after being subjected to post entry audit and examination as provided in Section 1101 hereof, is found to have incurred deficiencies in duties and taxes paid for imported goods, shall be penalized according to two (2) degrees of culpability subject to any mitigating, aggravating or extraordinary factors that are clearly established by the following available evidence:

- (a) Negligence. – When a deficiency results from an offender's failure, through an act or acts of omission or commission, to exercise reasonable care and competence to ensure that a statement made is correct, it shall be determined to be negligent and punishable by a fine equivalent to fifty percent (50%) not less than one-half (1/2) but not more than two (2) times the revenue loss the deficiency in duties, taxes and other charges; or
- (b) Fraud. – When the material false statement or act in connection with the transaction was committed or omitted knowingly, voluntarily and intentionally, as established by clear and convincing evidence, it shall be determined to be fraudulent and punishable by a fine equivalent to one hundred percent (100%) of the landed cost of every importation found to have fraudulent deficiencies in duties and taxes and imprisonment of not less than two (2) years but not more than eight (8) years.

The decision of the Commissioner of Customs, upon proper hearing, to impose penalties as prescribed in this section may be appealed in accordance with Section 1037 hereof.

SEC. 1104. *Records to be Kept by the Bureau.* – The Bureau shall likewise keep a record of audit results in a database of importer and broker profiles, to include but not be limited to:

- (a) Articles of Incorporation;
- (b) The company structure, which shall include but not be limited to:
 - (1) Incorporators and Board of Directors;
 - (2) Key officers; and
 - (3) Organizational structure.
- (c) Key importations;
- (d) Privileges enjoyed;
- (e) Penalties; and
- (f) Risk category(ies).

TITLE XII

CUSTOMS FRAUD

SEC. 1200. *Fraud Investigation and Prosecution.* – No criminal case for violation of this title shall be instituted without the approval of the Commissioner of Customs or the District Collector pursuant to the succeeding paragraph.

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

TITLE XIII

THIRD PARTIES

CHAPTER 1

CUSTOMS BROKERS AND SERVICE PROVIDERS

SEC. 1300. *Customs Brokers and Other Service Providers.* – Upon the recommendation of the Commissioner of Customs, the Secretary of Finance shall issue the necessary rules and regulations for the accreditation of customs brokers, and for other customs service providers to ensure their compliance with customs laws and regulations.

CHAPTER 2

CARRIERS, VESSELS AND AIRCRAFTS

SEC. 1301. *Ports Open to Vessels and Aircrafts Engaged in Foreign Trade.* – Duty of Vessel to Make Entry. – Vessels and aircrafts engaged in the foreign trade shall touch at ports of entry only, except as otherwise especially allowed; and every such vessel or aircraft arriving within a customs collection district of the Philippines from a foreign port shall make entry at the port of entry for such district and shall be subject to the authority of the Collector of the port while within his jurisdiction.

SEC. 1302. *Control of Customs Official Over Boarding or Leaving of Incoming Vessel and Over Other Vessel Approaching the Former.* – Upon the arrival in port of any vessel engaged in foreign trade, it shall be unlawful for any person (except the pilot, consul, quarantine officials, customs officers or other duly authorized persons) to board or leave the vessel without permission of the customs officer-in-charge; and it shall likewise be unlawful for any tugboat, rowboat or other craft to go along side and take any person aboard such vessel or take any person therefrom, except as aforesaid, or loiter near or alongside such vessel. Unauthorized tugboats and other vessels shall keep away from such vessel engaged in foreign trade at a distance of not less than fifty (50) meters.

SEC. 1303. *Quarantine Certificate for Incoming Vessel or Aircraft.* – Entry of a vessel or aircraft from a foreign port or place outside of the

Philippines shall not be permitted until it has obtained a quarantine certificate issued by the Bureau of Quarantine.

SEC. 1304. *Documents to be Produced by the Master Upon Entry of Vessel.* – For the purpose of making entry of a vessel engaged in foreign trade, the master thereof shall present the following documents duly certified by him, to the customs boarding officials:

- (a) The vessel's general declaration;
- (b) The original manifest of all cargoes destined for the port, to be returned with the indorsement of the boarding officials;
- (c) Three (3) copies of the same manifest, one of which, upon certification by the boarding official as to the correctness of the copy, shall be returned to the master;
- (d) A copy of the cargo stowage plan;
- (e) Two (2) copies of store list;
- (f) One (1) copy of passengers list;
- (g) One (1) copy of the crews list;
- (h) The original of all through cargo manifest, for deposit, while in port, with customs official incharge of the vessel;
- (i) A passengers manifest of all aliens, in conformity with the requirements of the immigration laws in force in the Philippines;
- (j) One (1) copy of the original duplicate of bills of lading fully accomplished;
- (k) The shipping articles and register of the vessel of Philippine registry; and
- (l) Such other related documents.

SEC. 1305. *Manifest Required of Vessel from Foreign Port.* – Every vessel from a foreign port must have on board a complete manifest of all her cargoes.

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

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

A cargo manifest shall in no case be changed or altered after entry of vessel, except by means of an amendment by the master, consignee or agent thereof, under oath and attached to the original manifest: *Provided, however,* That after the invoice and/or entry covering an importation have been received and recorded in the office of the appraiser, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any

fraudulent intent, discovery of which would not have been made until after examination of the importation has been completed.

SEC. 1306. *Translation of Manifest.* – The cargo manifest and each copy thereof shall be accompanied by a translation in English, if originally written in another language.

SEC. 1307. *Manifests for the 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 to the Chairman, Commission on Audit, Manila, 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. 1308. *Transit Cargo.* – When transit cargo from a foreign port or other local ports is forwarded from the port of importation separate manifest, in triplicate, shall be presented by each carrier.

SEC. 1309. *Clearance of Foreign Vessels to and from Coastwise Ports.* – Passengers or articles arriving from abroad on a foreign vessel may be carried by the same vessel through any port of entry to the port of destination in the Philippines or articles intended for export may be carried in a foreign vessel through a Philippine port. Upon such reasonable condition as may be imposed, the Commissioner may clear foreign vessels for any port and authorize the conveyance therein of either articles or passengers brought from abroad upon such vessels. The Commissioner may likewise, upon such conditions as may be imposed, allow a foreign vessel to take cargo and passengers at any port and convey the same, upon such vessel to a foreign port.

SEC. 1310. *Production of Philippine Crew.* – The master of a Philippine vessel returning from abroad shall produce the entire crew listed in the vessel's shipping articles; and if any member is missing, the master shall produce proof satisfactory to the Collector that such member has died, absconded, has been forcibly impressed into other service, or has been discharged; and in case of discharge in a foreign country, the master shall produce a certificate from the consul, vice consul or consular agent of the Philippines there residing, showing that such discharge was effected with the consent of the aforesaid representative of the Philippines.

SEC. 1311. *Record of Arrival and Entry of Vessels.* – A record shall be made and kept open to public inspection in every customhouse of the date of arrival and entry of all vessels.

SEC. 1312. *Arrest of Vessel Departing Before Entry Made.* – When a vessel arriving within the limits of a collection district from a foreign port departs or attempts to depart before entry shall have been made, not being thereunto compelled by stress of weather, duress of enemies, or other necessity, the Collector of the port may arrest and bring back such vessel to the most convenient port with assistance of other concerned agencies.

SEC. 1313. *Discharge of Ballast.* – When not brought to port as article, ballast of no commercial value may be discharged upon permit granted by the Collector for such purpose.

SEC. 1314. *Time of Unlading Cargo.* – Unlading of cargo from vessels or aircrafts from a foreign port during official nonworking hours shall be allowed subject to payment of service fees by shipping lines, airlines, or other interested parties at rates prescribed by the Commissioner of Customs.

SEC. 1315. *Entrance of Vessel Through Necessity.* – When a vessel from a foreign port is compelled, by stress of weather or other necessity to put into any other port than that of her destination, the master within twenty-four

(24) hours after her arrival, shall make protest under oath setting forth the causes or circumstances of such necessity. This protest, if not made before the Collector, must be produced and a copy thereof lodged with the Collector. Within the same time, the master shall make a report to the Collector if any part of the cargo was unladen from necessity or lost by casualty before arrival, and such fact should be made to appear by sufficient proof to the Collector who shall give the approval thereto and the unloading shall be deemed to have been lawfully effected.

SEC. 1316. *Unlading of Vessel in Port from Necessity.* – If the situation is such as to require the unloading of the vessel pending sojourn in port, the Collector shall, upon sufficient proof of the necessity, grant a permit therefore, and the articles shall be unladen and stored under the supervision of the customs authorities.

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

Upon departure, the cargo, or a residue thereof, may be reladen on board the vessel, and the vessel may proceed with the same to her destination, subject only to the charge for storing and safekeeping of the articles and the fees for entrance and clearance. No port charges shall be collected on vessels entering through stress of weather or other causes above described.

SEC. 1317. *Entry and Clearance of Vessels of a Foreign Government.*
– The entry and clearance transport or supply ship of a foreign government shall be in accordance with the agreement by and between the Philippines and the foreign government.

SEC. 1318. *Clearance of Vessel for Foreign Port.* – Before a clearance shall be granted to any vessel bound to a foreign port, the master, or

the agent thereof, shall present to the Collector the following properly authenticated documents:

- (a) A bill of health from the quarantine official or official of the public health service in the port;
- (b) Three (3) copies of the manifest of export cargo, one of which, upon certification by the customs official as to the correctness of the copy, shall be returned to the master;
- (c) Two (2) copies of the passengers list, showing alien and other passengers;
- (d) The register and shipping articles, if the vessel is of Philippine registry;
- (e) Clearance of last port of entry; and
- (f) A certificate of the Bureau of Posts to the effect that it received timely notice of the sailing of the vessel: *Provided*, That the Collector shall not permit any vessel to sail for a foreign port if the master or agent thereof refuses to receive bags of mail delivered to the same by the Bureau of Posts for transportation for a reasonable compensation. In case the Director of Posts and the said master or agent do not come to an agreement concerning the amount of the compensation to be paid for the carriage of the mail, the matter shall be submitted for decision to a Board of Referees, which shall fix a reasonable rate of compensation, to be composed of three (3) members appointed, respectively, by the Bureau of Posts, the agency of the company to which the vessel concerned belongs, and the Bureau.

SEC. 1319. *Detention of Warlike Vessel Containing Arms and Munitions.* – Collectors shall report to the proper authorities or detain any vessel of commercial registry manifestly built for warlike purposes and about

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

SEC. 1320. *Manifest of Export Cargo to be Delivered to the Chairman, Commission on Audit.* – The master shall, prior to departure, deliver mail to the Chairman, Commission on Audit, Manila, the returned copy of the manifest of export cargo.

SEC. 1321. *Oath of Master of Departing Vessel.* – The master of such departing vessel shall state under oath to the effect:

(a) That all cargoes conveyed on said vessel, with destination to the Philippines, has been duly discharged or accounted for;

(b) That a true copy of the outgoing cargo manifest has been mailed or delivered to the Chairman, Commission on Audit;

(c) That no letters or packets, not enclosed in properly stamped envelope sufficient to cover postage, have been received or will be conveyed, except those relating to the vessel; and that all mails placed on board his vessel before her last clearance from the Philippines have been delivered at the proper foreign port; and

(d) That if clearing without passenger, the vessel will not carry upon the instant voyage, from the Philippine port, any passenger of any class, or other person not entered upon the ship's declaration.

SEC. 1322. *Extension of Time for Clearance.* – At the time of clearance, the master of a departing vessel shall be required to indicate the time of intended departure, and if the vessel should remain in port forty-eight (48) hours after the time indicated, the master shall report to the Collector for an extension of time of departure, and without such extension the original clearance shall be nullified.

SEC. 1323. *Advance Notice of Arrival.* – (a) Nonscheduled Arrivals. – Before an aircraft comes into any area in the Philippines from any place outside thereof, a timely notice of the intended flight shall be furnished to the Collector or other customs officer-in-charge at or nearest the intended place of first landing such area, and to the quarantine and immigration officers-in-charge at or nearest such place of landing. If dependable facilities for giving notice are not available before departure, any radio equipment of the place shall be used if this will result in the giving of adequate and timely notice during its approach, otherwise landing shall be made at a place where the necessary facilities do exist before coming into any area in the Philippines. If, upon landing in any area, the government officers have not arrived, the pilot-in-command shall hold the aircraft and any baggage and article thereon intact and keep the passengers and crew members in a segregated place until the inspecting officers arrived.

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

SEC. 1324. *Landing at International Airport of Entry.* – Except in case of emergency or forced landings, aircraft arriving in the Philippines from any foreign port or place shall make the first landing at an international airport

of entry, unless permission to land elsewhere than at an international airport of entry is first obtained from the Commissioner. In such cases, the owner, operator, or person in charge of the aircraft shall pay the expenses incurred in inspecting the aircraft, articles, passengers and baggage carried thereon, and such aircraft shall be subject to the authority of the Collector at the airport while within his jurisdiction.

Should an emergency or forced landing be made by an aircraft coming into the Philippines from place outside thereof, the pilot-in-command shall not allow any article, baggage, passenger or crew member to be removed or to depart from the landing place without permission of a customs officer, unless such removal or departure is necessary for purposes of safety, communication with customs authorities, or preservation of life, health or property. As soon as practicable, the pilot-in-command, or a member of the crew-in-charge, or the owner of the aircraft, shall communicate with the customs officer at the intended place of first landing or at the nearest international airport or other customs port of entry in the area and make a full report of the circumstances of the flight and of the emergency or forced landing.

SEC. 1325. *Report of Arrival and Entry of Aircraft.* – The pilot-in-command of any aircraft arriving from a foreign port or place shall immediately report his arrival to the Collector at the airport of entry or to the customs officer detailed to meet the aircraft at the place of first landing. Such aircraft upon arrival shall be boarded by quarantine officer and after pratique (health clearance) is granted shall be boarded by customs officer, and no person shall be permitted to board or leave the aircraft without the permission of the customs officer-in-charge. The pilot-in-command or any other authorized agent of the owner or operator of the aircraft shall make the necessary entry. No such aircraft shall, without previous permission from the

Collector, depart from the place of first landing or discharge articles, passengers or baggage.

SEC. 1326. *Documents Required in Making Entry for Aircraft.* –

- (a) For the purpose of making entry, there shall be presented to the customs boarding officer four (4) copies of a general declaration which shall contain the following data, unless any of such data is otherwise presented on a separate official form:
 - (1) Name of owner or operator of aircraft, registration marks and nationality of aircraft, and flight number of identification;
 - (2) Points of clearance and entry, and date of arrival;
 - (3) Health and customs clearance at the last airport of departure;
 - (4) Itinerary of aircraft, including information as to airport of origin and departure dates;
 - (5) Names and nationality of crew members;
 - (6) Passengers manifest showing places of embarkation and destination;
 - (7) Cargo manifest showing information as to airway bill number, the number of packages related to each airway bill number, nature of goods, destination, and gross weight, together with a copy of each airway bill securely attached thereto;
 - (8) Store list; and
 - (9) And such other documents as may be required by the Bureau.
- (b) The general declaration shall be written in English and duly signed by the pilot-in-command or operator of the aircraft, or the authorized agent. The Health Section thereon, however, shall be signed only by the pilot-in-command or when necessary, by a crew member when the general declaration itself has been

signed by a noncrew member. If the aircraft does not carry cargoes or passengers such facts must be shown in the manifests.

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

SEC. 1327. *Manifest for the Commission on Audit.* – The pilot-in-command or authorized agent of an aircraft, upon arrival from a foreign port, shall deliver or mail to the Chairman, Commission on Audit, a copy of the general declaration properly endorsed by the customs boarding officer.

SEC. 1328. *Clearance of Aircraft for Foreign Port.* – (a) Any aircraft bound to a foreign port shall, before departure, clear at an airport of entry or at the same place where such aircraft has been authorized to make its landing by the Commissioner; and

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

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

- (2) Point of clearance, data thereof and destination;
- (3) Health and customs clearance;
- (4) Itinerary of aircraft, including information as to airport of destination and departure date;
- (5) Names and nationality of crew members;
- (6) Passengers manifest showing places of destination;
- (7) Export cargo manifest showing information as to airway bill number, the number of packages related to each airway bill number, nature of goods, destination, and gross weight, together with a copy of each airway bill securely attached thereto; and
- (8) Store list showing stores laden.

SEC. 1329. *Oath of Person in Charge of Departing Aircraft.* – The pilot-in-command or authorized agent of such departing aircraft shall also state under oath to the effect that:

- (a) All cargoes conveyed on said aircraft destined to the Philippines has been duly discharged and accounted for; and
- (b) He has not received nor will convey any letter or packet not enclosed in properly stamped envelope sufficient to cover postage, except those relating to the cargo of the aircraft, and that he has delivered to the proper foreign port all mails placed on board said aircraft before clearance from the Philippines.

If clearing without passengers, the aircraft shall not carry upon departure any passenger.

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

CHAPTER 3 OTHER THIRD PARTIES

SEC. 1330. *Supervision and Regulation of Third Parties.* – Third parties transacting with the Bureau in behalf of importers and consignees shall be treated equally as if they are themselves the importers or consignees.

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

Upon the recommendation of the Commissioner of Customs, the Secretary of Finance shall issue rules and regulations for the Bureau to supervise and regulate all third parties dealing directly with the Bureau for and in behalf of another person in relation to the importation, exportation, movement, storage and clearance of goods. Third parties as provided in this section may refer to, among others, logistics providers, importers, exporters, customs brokers, carriers, airlines, shipping lines, shipping agents, forwarders, consolidators, port and terminal operators and warehouse operators. The rules and regulations shall provide for specific conditions when third parties may or may not directly transact with customs and shall provide a written notice in case such third parties are, for valid reasons, barred from transacting with customs.

CHAPTER 4

AUTHORIZED ECONOMIC OPERATORS (AEO) AND AUTHORIZED PERSONS

SEC. 1331. *Authorized Economic Operators (AEO) and Other Authorized Persons.* – Upon the recommendation of the Commissioner of Customs, the Secretary of Finance shall issue the necessary rules:

- (a) To supervise and regulate Authorized Economic Operators (AEO), consistent with international best practices, the World Customs Organization (WCO) framework of standards to secure and facilitate global trade, and other international conventions and agreements; and

- (b) To develop trade facilitation programs for AEOs and other authorized persons consistent with international best practices and international conventions and agreements.

TITLE XIV

CUSTOMS FEES AND CHARGES

SEC. 1400. *Customs Dues, Fees and Charges.* – For services rendered and documents issued by the Bureau, dues, fees and charges shall be collected as may be provided under existing regulations issued by the Secretary of Finance, upon the recommendation of the Commissioner.

SEC. 1401. *Effect of Failure to Affix Stamp Upon Document.* – No document or any other paper upon which no documentary customs stamps have been affixed and cancelled shall be received or recognized by any customs officer.

SEC. 1402. *General Provision on the Authority to Increase or Decrease Dues, Fees and Charges.* – The Secretary of Finance may, upon the recommendation of the Commissioner of Customs, increase or decrease the dues, fees and charges collectible by the Bureau to protect the interest of the government.

TITLE XV

OFFENCES AND PENALTIES

SEC. 1500. *Failure to Pay Liquidated Charges.* – For failure to pay the amount of liquidated duties, taxes and other charges of a liquidation within ten (10) working days after due notice of liquidation, surcharge of ten percent (10%) of the total amount or balance found upon liquidation shall be added thereto and collected therewith, which surcharge shall be increased to twenty-five percent (25%) if the delinquency lasts for more than one (1) year.

SEC. 1501. *Unauthorized Withdrawal of Imported Articles from Bonded Warehouse.* – Upon any unauthorized withdrawal of imported articles

stored in a custom bonded warehouse, a surcharge of fifty percent (50%) of duties, taxes, customs fees and charges, found to be due and unpaid, shall be added thereto and collected. The surcharge shall be increased by twenty-five percent (25%) annually of the unpaid duties and taxes if the delinquency lasts for more than one (1) year.

SEC. 1502. *Misdeclaration, Misclassification, Undervaluation in Goods Declaration.* – Misdeclaration as to quantity, or weight, or measurement, or the description of the article resulting in misclassification occurs when there is a discrepancy of ten percent (10%) or more but not exceeding thirty percent (30%) in duty between what is found upon examination and what is declared. In case of such misdeclaration, a surcharge equivalent to one hundred percent (100%) of the difference between the full duty as found and that as declared shall be imposed. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%).

Misclassification occurs when an incorrect tariff heading is used resulting in a discrepancy in duty by ten percent (10%) or more but not exceeding thirty percent (30%). In case of misclassification, a surcharge equivalent to one hundred percent (100%) of the difference between the full duty as found and that as declared shall be imposed. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%); or when the declared tariff heading is rejected in a formal customs dispute settlement process involving difficult or highly technical question of tariff classification; or when the tariff classification declaration relied on an official government ruling or information.

A discrepancy in misdeclaration or in misclassification mentioned above of more than thirty percent (30%) shall constitute a *prima facie* evidence of fraud penalized under Section 1200 of this Act: *Provided*, That any undeclared

articles/items shall *ipso facto* be forfeited in favor of the government to be disposed of pursuant to the provisions of this Act.

When the misdeclaration or misclassification is intentional or fraudulent, the articles shall be subject to seizure and forfeiture proceedings regardless of the amount of the discrepancy without prejudice to the application of penal provisions under Section 1526 of this Act against the importer and/or other person or persons who wilfully participated in the fraudulent act.

When the discrepancy mentioned in the foregoing is established during post entry audit, the pertinent provisions of Title XI of this Act on post entry audit shall govern.

There is undervaluation when: (a) the customs value declaration in the import entry fails to disclose in full the price actually paid or payable and/or any dutiable adjustment to the price actually paid or payable for the imported articles; or (b) when it uses an incorrect valuation method or otherwise has not properly observed the valuation rules under the transaction value system, resulting in a discrepancy in duty between the correct transaction value under the applicable method and that as declared.

When the undervaluation is established without need to go through the formal dispute settlement process required under the transaction value system provided for in this Act, a surcharge shall be imposed in an amount equal to one hundred percent (100%) of the difference between the full duty as established and that as declared. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%); or the declared value is rejected as a result of an official ruling or decision under the customs dispute settlement process involving difficult or highly technical question relating to the application of customs valuation rules; or the value declaration relied on an official government ruling or information.

When the undervaluation is attended with fraud, such as when a false invoice or fake or altered document supporting the declared customs value is submitted, or otherwise a false statement or information is knowingly made, and is uncovered at the time customs still has physical custody of or control over the imported articles, the same shall be subject to seizure and forfeiture proceedings, without prejudice to the application of the penal provisions under Section 1526 of this Act against the importer and/or other person or persons who willfully participated in the fraudulent act.

When the undervaluation, fraudulent or not, is established during post entry audit, the pertinent provisions of Title XI of this Act on post entry audit shall govern.

SEC. 1503. *Failure or Refusal of Party to Give Evidence or Submit Documents for Examination.* – When the owner, importer or consignee of any imported article, or the agent of either, fails or refuses, upon lawful demand in writing by any customs official to appear, make oath, or submit to examination or to answer any material question or refuses to produce records, accounts or invoices in possession pertaining to the value, classification or disposition of the article in question and deemed material in appraising the same, the Collector shall assess a surcharge of twenty percent (20%) *ad valorem* on the article which is the subject of the importation.

SEC. 1504. *Failure to Declare Baggage.* – Whenever any dutiable article is found in the baggage of any person arriving within the Philippines which is not included in the baggage declaration, such article shall be seized and the person in whose baggage it is found may obtain release of such article, if not imported contrary to any law upon payment of thrice the appraised value of such article plus all duties, taxes and other charges due thereon unless it shall be established to the satisfaction of the Collector that the failure to

mention or declare such dutiable article was without fraud. Nothing in this section shall preclude the bringing of criminal action against the offender.

SEC. 1505. *Breach of Bond.* – Upon breach of bond required to be filed under the tariff and customs laws, the Collector, subject to the approval of the Commissioner, may accept in satisfaction thereof a smaller sum than that mentioned in the penalty clause of the bond, but in no case less than the amount necessary to indemnify the government for the damage occasioned by such breach.

SEC. 1506. *Vessel, Seacraft or Aircraft Departing Before Entry Made.*
– Any vessel, seacraft or aircraft arriving within the limits of a collection district from a foreign port which departs before the entry is made, without being compelled to do so by stress of weather, pursuit or duress of enemies, or other necessity, shall be fined in the sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 1507. *Obstruction to Boarding Official.* – If the master or pilot-in-command or any member of the complement of any vessel or aircraft arriving at the Philippine port obstructs or hinders any official from lawfully going on board such vessel or aircraft for the purpose of enforcing the customs and tariff laws, or intentionally causes any such official to be so obstructed or hindered, the vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 1508. *Unlawful Boarding or Leaving of Vessel or Aircraft.* – If upon arrival at the Philippine port, any master of a vessel or pilot-in-command of an aircraft engaged in a foreign trade permits any person to board or leave the vessel or aircraft without the permission of the customs official in charge, such vessel or aircraft shall be fined in a sum not less than Thirty thousand

pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 1509. *Failure to Deliver or Receive Mail.* – If the master of a vessel or the pilot-in-command of an aircraft arriving at the Philippine port fails or refuses to deliver to the postmaster of the nearest post office, as required by law or contract, all mail matters on board such vessel or aircraft and destined for the particular port, the vessel or aircraft shall be fined in a sum not exceeding One hundred thousand pesos (P100,000.00).

When any vessel or aircraft which is required by law or contract to carry mail matter departs from a port or place where mail should be received, without giving the postmaster or other postal official a reasonable opportunity to deliver to the vessel or aircraft or its proper officer or agent, any mail matter addressed to or destined for the port or place to which the vessel or aircraft is bound, such vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 1510. *Unlading of Cargo Before Arrival at Port of Destination.*
– If, upon the arrival within the limits of any collection district of the Philippines of any vessel or aircraft engaged in foreign trade, the master or pilot-in-command thereof permits any part of the cargo to be unladen before arrival at the port of destination, and without authority from a proper customs official, such vessel or aircraft shall be fined a sum not less than Thirty thousand pesos (P30,000.00) but not exceeding One hundred thousand pesos (P100,000.00): *Provided*, That no fine shall accrue upon satisfactory proof to the proper collector that the unlading was rendered necessary by stress of weather, accident or other necessity.

SEC. 1511. *Unlading of Cargo at Improper Time or Place After Arrival.* – Any vessel or aircraft, which after arrival at the port of destination

in the Philippines, discharges cargo at any time or place other than that designated by the Collector shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) and not exceeding One hundred thousand pesos (P100,000.00): *Provided*, That no fine shall accrue upon satisfactory proof to the proper collector that the unloading was rendered necessary by stress of weather, accident or other necessity.

SEC. 1512. *Failure to Exhibit or Deposit Documents.* – When the master of a vessel or pilot-in-command of an aircraft engaged in foreign trade fails to exhibit to the Collector at the time of entry of the vessel or aircraft the register or other paper in lieu thereof, together with the clearance and other papers granted by the customs officers to the vessel or aircraft at the last foreign port of departure, or fails to exhibit any certificate or other documents required to be then exhibited, such vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00). Such vessel shall be liable for the payment of the aforesaid fine if the master, within forty-eight (48) hours, after arrival, shall fail to deliver to the proper consular officer of the nation such document required by law to be deposited with the Collector, or, if after having made such deposit, the master shall fail to produce to the Collector the required evidence that the same has been effected.

SEC. 1513. *Bringing of Unmanifested Arms, Explosives or War Equipment.* – Any vessel or aircraft arriving at a port in the Philippines having firearms, gunpowder, cartridges, dynamite or any other explosives, munitions or equipment of war concealed on board the vessel or not contained in the manifest of the vessel or aircraft, shall be fined a sum of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00).

SEC. 1514. *Failure to Supply Advance and Requisite Manifests.* – Failure to transmit the electronic manifest within the cut-off time as may be prescribed by the Bureau prior to arrival of the carrying vessel at the port of entry shall likewise be fined in a sum of not less than Thirty thousand pesos (P30,000.00) but not exceeding Fifty thousand pesos (P50,000.00).

If the transit time from port of origin to port of entry is at least seventy-two (72) hours, the shipping/forwarding agent of the carrier or the vessel who fails to submit manifest at least twenty-four (24) hours before entry shall likewise be fined in a sum of not less than Thirty thousand pesos (P30,000.00) but not exceeding Fifty thousand pesos (P50,000.00).

The same fine shall be imposed upon any arriving or departing vessel or aircraft if the master or pilot-in-command shall fail to deliver or mail to the Chairman, Commission on Audit a true copy of the manifest of the incoming or outgoing cargo, as required by law.

SEC. 1515. *Disappearance of Manifested Article.* – When any package or article mentioned in the manifest is not unladen at the port of destination upon the arrival of the vessel or aircraft, the latter's agent shall be fined in a sum not exceeding Twenty thousand pesos (P20,000.00) unless the disappearance of the package or the article in question was not due to the negligence of the master of the vessel or pilot-in-command of an aircraft and explained to the satisfaction of the Collector.

The vessel or aircraft shall be liable for the payment of the same fine when a package or article listed in the manifest does not tally materially in character or otherwise with the description thereof in the manifest.

SEC. 1516. *Discrepancy Between Actual and Declared Weight of Manifested Article.* – If the gross weight of any article or package described in the manifest exceeds by more than twenty percent (20%), the gross weight as declared in the manifest or bill of lading thereof, and the Collector shall be

of the opinion that such discrepancy was due to the carelessness or incompetency of the master or pilot-in-command, owner or employee of the vessel or aircraft, a fine of not more than fifteen percent (15%) of the value of the package or article in respect to which the deficiency exists, may be imposed upon the importing vessel or aircraft.

SEC. 1517. *Delivery of Cargo Not Agreeing with the Master's or Pilot's-in-Command Report.* – When a vessel or aircraft arriving from a foreign port is compelled by necessity to put into another port than the port of destination and permission is granted by the Collector for the unloading of the vessel or aircraft or the delivery of any part of the cargo and it shall be found that the delivery of the cargo does not agree with the master's or the pilot's-in-command report, and the discrepancy is not satisfactorily explained, the vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not less than One hundred thousand pesos (P100,000.00).

SEC. 1518. *Breaking of Seal Placed by Customs Officials.* – If any seal placed by a custom official upon any vessel or aircraft or compartment thereof, or upon any box, trunk or other package of article on board, any vessel or aircraft shall be fined a sum not less than Fifty thousand pesos (P50,000.00) for each seal so broken or destroyed.

SEC. 1519. *Breaking of Lock or Fastening Placed by Customs Officials.* – If any lock or other fastening device placed by a custom official upon any hatch door, or other means of communication with the hold of a vessel or aircraft, or other part thereof, for the security of the same during the night time, shall be unlawfully opened, broken or removed, or if any of the articles contained in the hold or in the other compartments so secured shall be clandestinely abstracted and landed, the vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 1520. *Disappearance of Trunk or Package Specially Noted by Customs Official.* – When any box, trunk or other package of article is found by a customs official on any incoming vessel or aircraft separate from the rest of the cargo or in any unusual or improper place on such vessel or aircraft and the same shall be noted by him, with proper description, and the attention of the master or pilot-in-command or other responsible officer of the vessel or aircraft is called thereto, the vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) for every such package which may subsequently be missing and unaccounted for upon the arrival of the vessel or aircraft at the port of entry.

SEC. 1521. *False Statement of Vessel's or Aircraft's Destination.* – When the master or pilot-in-command of a vessel or aircraft laden with articles shall make a false statement as to the next destination of such vessel or aircraft when information concerning the same is required by a customs officer, such vessel or aircraft shall be fined in a sum not less than Thirty thousand pesos (P30,000.00) but not more than One hundred thousand pesos (P100,000.00); and the circumstances that a vessel or aircraft after clearing for a certain port of destination goes to some other port, not being impelled to do so by necessity, shall be *prima facie* proof that the original statement of the vessel's or aircraft's actual destination was false.

SEC. 1522. *Other Offences.* – A vessel shall be fined in an amount hereafter fixed for:

- (a) Anchoring at any dock, pier, wharf, quay or bulkhead without rat guards, Five thousand pesos (P5,000.00) for coastwise vessels and Ten thousand pesos (P10,000.00) for overseas vessels;
- (b) Dumping of garbage or slops over the sides within three (3) miles from the nearest coastline, One hundred thousand pesos (P100,000.00);

- (c) Dumping or causing to spread crude oil, kerosene or gasoline in the bay or at the piers within three (3) miles from the nearest coastline, One hundred thousand pesos (P100,000.00) for each offence;
- (d) Loading gasoline at a place other than that designated by the regulations, One hundred thousand pesos (P100,000.00) for each offence; and
- (e) Causing the emission and spread of harmful gas, fumes and chemicals, Two hundred thousand pesos (P200,000.00) for each offense.

SEC. 1523. *Property Subject to Forfeiture Under this Act.* – Any vehicle, vessel or aircraft, cargo, article and other objects shall, under the following conditions be subjected to forfeiture:

- (a) Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles or in conveying and/or transporting contraband or smuggled articles in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of contraband or smuggled articles in commercial quantities shall subject such vessel, vehicle, aircraft, or any other craft to forfeiture: *Provided*, That the vessel, vehicle, or aircraft or any other craft is not used as duly authorized common carrier and as such a carrier it is not chartered or leased;
- (b) Any vessel engaging in the coastwise which shall have on board any article of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such article having been properly entered or legally imported;
- (c) Any vessel or aircraft into which shall be transferred cargo unladen contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination;

- (d) Any part of the cargo, stores or supplies of a vessel or aircraft arriving from a foreign port which is unladen before arrival at the vessel's or aircraft's port of destination and without authority from the customs officials; but such cargo, ship or aircraft stores and supplies shall not be forfeited if such unloading was due to accident, stress of weather or other necessity and is subsequently approved by the Collector;
- (e) Any article which is fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard or container freight station under customs supervision;
- (f) Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;
- (g) Unmanifested article found on any vessel or aircraft if manifest therefor is required;
- (h) Sea stores or aircraft stores adjudged by the Collector to be excessive, when the duties assessed by the Collector thereon are not paid or secured forthwith upon assessment of the same;
- (i) Any package of imported article which is found by the examining official to contain any article not specified in the invoice or entry, including all other packages purportedly containing imported articles similar to those declared in the invoice or entry to be the contents of the misdeclared package: *Provided*, That the Collector is of the opinion that the misdeclaration was contrary to law;
- (j) Boxes, cases, trunks, envelopes and other containers of whatever character used as receptacle or as device to conceal article which is

itself subject to forfeiture under the tariff and customs laws or which is so designed as to conceal the character of such articles;

- (k) Any conveyance actually being used for the transport of articles subject to forfeiture under the customs and tariff laws, with its equipage or trappings, and any vehicle similarly used, together with its equipage and appurtenances including the beast, steam or other motive power drawing or propelling the same. The mere conveyance of contraband or smuggled articles by such beast or vehicle shall be sufficient cause for the outright seizure and confiscation of such beast or vehicle but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or his agent in charge thereof at the time, has no knowledge of the unlawful act; and
- (1) Any article sought to be imported or exported:
 - (1) Without going through a customhouse, whether the act was consummated, frustrated or attempted;
 - (2) By failure to mention to a customs official, articles found in the baggage of a person arriving from abroad;
 - (3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;
 - (4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and
 - (5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government.

SEC. 1524. *Properties Not Subject to Forfeiture in the Absence of Prima Facie Evidence.* – The forfeiture of the vehicle, vessel or aircraft shall not be effected if it is established that the owner thereof or the agent in charge of the means of conveyance used as aforesaid has no knowledge of or participation in the unlawful act: *Provided, however,* That a *prima facie* presumption shall exist against the vessel, vehicle or aircraft under any of the following circumstances:

- (a) If the conveyance has been used for smuggling before;
- (b) If the owner is not in the business for which the conveyance is generally used; and
- (c) If the owner is not financially in a position to own such conveyance.

SEC. 1525. *Conditions Affecting Forfeiture of Article.* – The forfeiture shall be effected only when and while the article is in the custody or within the jurisdiction of the customs authorities or in the hands or subject to the control of the importer, exporter, original owner, consignee, agent of other person effecting the importation, entry or exportation in question, or in the hands or subject to the control of some persons who shall receive, conceal, buy, sell or transport the same or aid in any such acts, with knowledge that the article was imported, or was the subject of an attempt at importation or exportation, contrary to law.

SEC. 1526. *Unlawful Importation or Exportation.* – Any person who shall fraudulently import or export or bring into or out of the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or in any manner 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:

- (a) A fine of not less than Twenty thousand pesos (P20,000.00) nor more than One hundred thousand pesos (P100,000.00) and

imprisonment of not less than two (2) years and one (1) day but not more than six (6) years if the value to be determined in the manner prescribed under this Act, including duties and taxes, of the article unlawfully imported does not exceed Two hundred thousand pesos (P200,000.00);

- (b) A fine of not less than One hundred fifty thousand pesos (P150,000.00) nor more than Three hundred thousand pesos (P300,000.00) and imprisonment of not less than seven (7) years and one (1) day nor more than ten (10) years, if the value, to be determined in the manner prescribed under this Act, including duties and taxes, of the article unlawfully imported exceeds Two hundred thousand pesos (P200,000.00) but does not exceed Six hundred thousand pesos (P600,000.00);
- (c) A fine of not less than Four hundred thousand pesos (P400,000.00) nor more than Six hundred thousand pesos (P600,000.00) and imprisonment of not less than eleven (11) years and one (1) day nor more than fifteen (15) years, if the appraised value to be determined in the manner prescribed under this Act, including duties and taxes, of the article unlawfully imported exceeds Six hundred thousand pesos (P600,000.00) but does not exceed One million pesos (P1,000,000.00);
- (d) A fine of not less than Eight hundred thousand pesos (P800,000.00) nor more than Ten million pesos (P10,000,000.00) and imprisonment of not less than sixteen (16) years and one (1) day nor more than twenty (20) years, if the appraised value to be determined in the manner prescribed under this Act, including duties and taxes, of the article unlawfully imported exceeds

One million pesos (P1,000,000.00) but does not exceed Fifty million pesos (P50,000,000.00);

- (e) If the appraised value to be determined in the manner prescribed under this Act, of the article unlawfully imported, including duties and taxes, exceeds Fifty million pesos (P50,000,000.00) or if the aggregate amount of the appraised values of the unlawfully imported articles, including duties and taxes, resulting from acts of unlawful importation committed in more than one instance, exceeds Fifty million pesos (P50,000,000.00), the same shall be deemed as heinous crime and shall be punishable with a penalty of *reclusion perpetua* and a fine of not less than Twelve million pesos (P12,000,000.00) but not more than Fifty million pesos (P50,000,000.00); and
- (f) The penalty of *prision mayor* shall be imposed when the crime of serious physical injuries shall have been committed and the penalty of *reclusion perpetua* shall be imposed when the crime of homicide shall have been committed by reason or on the occasion of the unlawful importation.

In applying the above scale of penalties, the offender, if an alien, shall be deported after serving the sentence without further proceedings for deportation. If the offender is a government official or employee, the penalty which is the next higher in degree shall be imposed in addition to the penalty of perpetual disqualification from public office, to vote and to participate in any public election. If the offender fails to pay the fine, subsidiary imprisonment shall be served.

When, upon trial for violation of this section, the defendant is shown to have had possession of the 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 defense in any prosecution under this section.

SEC. 1527. *Various Fraudulent Practices Against Customs Revenue.* – Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper or by any means of any false statement, written or verbal, or by any means of any false or fraudulent practice whatsoever, or knowingly effects any entry of goods, wares or merchandise, at less than true weight or measures thereof or upon a false classification as to quality or value, or by the payment of less than the amount legally due, or knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback or refund of duties upon the exportation of merchandise, or makes or files any affidavit abstract, record, certificate or other document, with a view to securing the payment of any drawback, allowance, or refund of duties on the exportation of merchandise, greater than that legally due thereon, or who shall be guilty of any willful act or omission shall, for each offence, be punished in accordance with the penalties prescribed in the preceding section.

SEC. 1528. *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 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 Fifty thousand pesos (P50,000.00) but not more than Two hundred thousand pesos (P200,000.00) and imprisonment of not less than two (2) years and one (1) day but not more than five (5) years. The offender, if an alien, shall be deported after serving the sentence. The offender, if a public official or employee, shall suffer additional penalty of perpetual disqualification to

hold public office, to vote and to participate, in any election. All the benefits due from service in the government, including the separation and retirement benefits, shall be forfeited.

SEC. 1529. *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 Act, who is guilty of any delinquency herein below indicated shall be punished with a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Five hundred thousand pesos (P500,000.00) and imprisonment of not less than ten (10) years and one (1) day but not more than fifteen (15) years and perpetual disqualification to hold public office, to vote and to participate in any public election:

- (a) Those guilty of extortion or willful oppression under color of law;
- (b) Those who knowingly demand other or greater sums that are authorized by law or receive any fee, compensation, or reward except as by law prescribed, for the performance of any duty;
- (c) Those who willfully neglect to give receipts, as required by law for any sum collection in the performance of duty, or who willfully neglect to perform any of the duties enjoined by law;
- (d) Those who conspire or collude with another or others to defraud the customs revenue or otherwise violate the law;
- (e) Those who willfully make opportunity for any person to defraud the customs revenue or who do or fail to do any act with intent to enable any person to defraud said revenue;
- (f) Those who negligently or designedly permit the violation of the law by any other person;

- (g) Those who make or sign any false entry or entries in any book, or make or sign any false certificate or return in any case where the law requires the making by them of such entry certificate or return;
- (h) Those who, having knowledge or information of a violation of this Act or any fraud committed on the revenue collectible by the Bureau, fail to report such knowledge or information to their superior official or to report as otherwise required by law;
- (i) Those who, without the authority of law, demand or accept or attempt to collect directly or indirectly as payment or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law; or
- (j) Those who, without authority of law, disclose confidential information gained during any investigation or audit, or use such information for personal gain or to the detriment of the government, the Bureau or third parties.

All the benefits due from service in the government, including the separation and retirement benefits, shall be forfeited.

SEC. 1530. *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 any time 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 Twenty thousand pesos (P20,000.00) but not more than One hundred thousand pesos (P100,000.00) and imprisonment of not less than two (2) years and one (1) day but not more than five (5) years.

SEC. 1531. *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 Twenty thousand pesos (P20,000.00) but not more than One hundred thousand pesos (P100,000.00) and imprisonment of not less than two (2) years and one (1) day but not more than seven (7) years. The offender, if an alien, shall be deported after serving the sentence; and if a public official or employee, shall suffer an additional penalty of perpetual disqualification to hold public office, to vote and participate in any election.

SEC. 1532. *Removal, Breakage, Alteration of Marks.* – Any person who without authority, willfully removes, breaks, injures, or defaces or alters any customs seal or other fastening or mark placed upon any vessel, vehicles, on land, sea or air, warehouse or package containing merchandise or baggage in bond or in customs custody, shall be punished with the penalty prescribed in Section 1518 hereof.

SEC. 1533. *Removing or Repacking Goods in Warehouse.* – Any person who fraudulently conceals, removes, or repacks merchandise in any warehouse or fraudulently alters, defaces or obliterates any marks or numbers placed upon packages deposited in such warehouse, or shall aid or abet in any such acts or omission, shall be punished with the penalties prescribed in Section 1531 hereof.

Merchandise so concealed, removed, or repacked, or packages upon which marks or numbers have been so altered, defaced or obliterated, or the value thereof, shall be forfeited in favor of the government.

SEC. 1534. *Removing Goods from Customs Custody.* – Any person who maliciously enters any warehouse, or any vehicle laden with or containing merchandise with intent to unlawfully remove therefrom any merchandise or

baggage in such vessels, vehicle or warehouse or otherwise in customs custody or control, or any person who receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle or warehouse, or shall aid or abet such removal, shall suffer the penalties provided in Section 1531 hereof.

SEC. 1535. *Failure to Keep Importation Records and Full Access to Customs Officers.* – Any person who fails to keep all the records of importations and/or books of accounts, business and computer systems and all customs commercial data in the manner prescribed in this Act shall be punished with a fine of not less than Two hundred thousand pesos (P200,000.00) but not more than Five hundred thousand pesos (P500,000.00) and imprisonment of not less than four (4) years and one (1) day but not more than eight (8) years. This penalty shall likewise be imposed against importers/brokers who deny an authorized customs officer full and free access to such records, books of accounts, business and computer systems, and all customs commercial data including payment records. This is without prejudice to the administrative sanctions that the Bureau may impose against the contumacious importers under existing laws and regulations including the authority to hold delivery or release of their imported articles.

SEC. 1536. *Violations of Customs and Tariff Laws and Regulations in General.* – Any person who violates any provision of this Act or regulations pursuant thereto, for which delinquency no specific penalty is provided, shall be punished by a fine of not less than Twenty thousand pesos (P20,000.00) but not more than One hundred thousand pesos (P100,000.00) and imprisonment of not less than two (2) years and one (1) day but not more than five (5) years. The offender, if an alien, shall be deported after serving the sentence; and if a public official or employee, shall suffer disqualification to hold public office, to vote and participate in any public election for ten (10) years.

TITLE XVI

MISCELLANEOUS PROVISIONS

SEC. 1600. *Information, Decisions and Rulings.* – The Bureau shall ensure that all information of general application pertaining to customs, including revisions or amendments thereto, shall be available to the general public.

SEC. 1601. *Duty of Collector to Report Rulings to the Commissioner.* – When any new or unsettled question shall be determined by a Collector, and if the matter is not otherwise appealed for review in the ordinary course, the Collector shall notify the Commissioner of the decision and submit an adequate statement of the facts involved.

SEC. 1602. *Application of Established Ruling or Decision.* – A ruling or decision of the Commissioner of Customs which determines the construction or application of any provision of law imposing customs duties and which changes any existing established classification, interpretation or practice shall not take effect until after thirty (30) days public notice shall have been given in the form of a published customs tariff decision. When such ruling or decision favors the taxpayers, it shall become effective immediately.

SEC. 1603. *Authority of Official to Administer Oaths and Take Testimony.* – The Commissioner, Collectors and their deputies, and other customs employees especially deputized by the Collector shall have authority to administer oaths and take testimony in connection with any matter within the jurisdiction of the Bureau and in connection therewith may require the production of relevant papers, documents, books and records in accordance with law.

SEC. 1604. *General Bonds.* – In cases where bonds are required to be given under the provisions of the customs and tariff laws, the Collector, instead of requiring separate special bonds where transactions of a particular party are

numerous, may accept general bonds extending over such periods of time and covering such transactions of the party in question as shall be satisfactory to said Collector.

SEC. 1605. *Customs Service Fees.* – Customs personnel may be assigned by a Collector to render overtime work and other customs services based on service fees fixed by the Commissioner of Customs, as approved by the Secretary of Finance, to be paid by importers, shippers, airlines, shipping lines, logistics providers, port operators and other third parties.

SEC. 1606. *Reduction of Testimony to Writing.* – When testimony is taken in any proceeding or matter under the authority of the Bureau, either party may require that the same be reduced to writing, and when so taken it shall be filed in the Office of the Collector and preserved for use or reference until final decision.

SEC. 1607. *Collector Not Liable in Respect to Ruling in Customs Cases.* – No Collector or other official of the Bureau shall be in any way personally liable for or an account of any official ruling or decision as to which the person claiming to be aggrieved has the right to obtain either an administrative or judicial review, and except for misdelivery of articles a Collector shall not, in the absence of abuse of authority, be liable to any person for a loss occasioned either by the official act or the acts of the subordinates.

SEC. 1608. *Interest Prohibited to be Held by Customs Employees.* – No person employed under the authority of the government in the collection of duties, taxes, fees and other charges in connection with imports and/or exports, shall own, either in whole or in part, any vessel or aircraft or act as attorney, agent or consignee for the owner of any vessel or aircraft or of any cargo laden on board the same nor shall any such person import or be concerned, directly or indirectly, in the importation of any article for sale into the Philippines.

SEC. 1609. *Reward to Persons Instrumental in the Actual Collection of Additional Revenues Arising from the Discovery of Violations of Customs and Tariff Laws.* – The provisions of general and special laws to the contrary notwithstanding, a cash reward equivalent to twenty percent (20%) of the actual proceeds from the sale of smuggled articles and confiscated goods or actual collection of additional revenues shall be given to the customs and non-customs informers who are instrumental in the collection of additional revenues arising from the discovery of violations of customs and tariff laws in accordance with the rules and regulations to be issued by the Secretary of Finance.

SEC. 1610. *Reward to Prosecutor/s Who are Responsible for the Successful Prosecution of Violators of Customs and Tariff Laws.* – The provisions of general and special laws to the contrary notwithstanding, a cash reward equivalent to twenty percent (20%) of the actual proceeds from the sale of smuggled articles and confiscated goods or actual collection of collectible revenues arising from the litigated case shall be given to the prosecutor/s responsible for the successful conviction by final judgment of customs and tariff laws violators and/or recovery of revenues due, subject to such rules and regulations to be issued by the Secretary of Finance.

SEC. 1611. *Outsourcing of Non-Sovereign Customs Functions to Private Entities.* – Subject to the approval of the Secretary of Finance, the Bureau may outsource any of its non-sovereign and/or ancillary function to qualified and competent private entities in accordance with government rules on service procurement.

SEC. 1612. *International Standards and Best Practices.* – The Bureau may adopt international standards and best practices in customs administration laid down by international agreement or convention pertaining to trade

facilitation, supply chain security, and related matters, whether or not the Philippines is signatory to such international agreement or convention.

TITLE XVII

TARIFF ADMINISTRATION AND POLICY

CHAPTER 1

TARIFF COMMISSION

SEC. 1700. *Chief Officials of the Tariff Commission and Their Qualifications.* – The officials of the Tariff Commission shall be the Chairperson and two (2) Member Commissioners to be appointed by the President of the Philippines. No person shall be eligible for appointment as Chairperson and Tariff Commissioners unless they are natural-born citizens of the Philippines, of good moral character and proven integrity, and who by experience and academic training are possessed of qualifications requisite for developing expert knowledge of tariff problems. They shall not, during their tenure in office, engage in the practice of any profession, or intervene directly or indirectly in the management or control of any private enterprise which may, in any way, be affected by the functions of their office nor shall be, directly or indirectly, financially interested in any contract with the government, or any subdivision or instrumentality thereof.

SEC. 1701. *Appointment and Compensation of Officials and Employees.* – All employees of the Commission shall be appointed by the Chairperson in accordance with the staffing pattern as approved by the DBM and with the Civil Service Law, except as to the directors and the private secretaries in the offices of the Chairperson and the Commissioners.

The Tariff Commission shall be reorganized in accordance with the requirements of its reorganized functions and responsibilities. The Chairperson of the Commission, subject to the approval of the Director-General of the NEDA, shall determine the new position-designations and salary scales of the

officials and employees of the Commission by taking into account the degree of responsibilities of each position: *Provided*, That the Office of Compensation and Position Classification shall be furnished a copy of the new plantilla of positions incorporating the new designations to be automatically included in its manual of positions: *Provided, further*, That the reorganization shall not in any way affect whatever benefits the officials and employees of the Commission are allowed under existing law and/or authority.

SEC. 1702. *Official Seal.* – The Commission is authorized to adopt an official seal.

SEC. 1703. *Functions of the Commission.* – The Commission shall have the functions to investigate the following:

- (a) The administration of, and the fiscal and industrial effects of, the customs and tariff laws of this country now in force or which may hereafter be enacted;
- (b) The relations between the rates of duty on raw materials and the finished or partly finished products;
- (c) The effects of *ad valorem* and specific duties and of compound specific and *ad valorem* duties;
- (d) All questions relative to the arrangement of schedules and classification of articles in the several sections of the tariff law;
- (e) The tariff relations between the Philippines and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates;
- (f) The volume of importations compared with domestic production and consumption;
- (g) Conditions, causes and effects relating to competition of foreign industries with those of the Philippines, including dumping and cost of production;

- (h) In general, to investigate the operation of customs and tariff laws, including their relation to the national revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereinafter provided; and
- (i) The nature and composition of, and the classification of, articles according to tariff commodity classification and heading number for customs revenue and other related purposes which shall be furnished to the NEDA, the Board of Investments, the BSP and the Secretary of Finance.

SEC. 1704. *Assistance to the President and Congress of the Philippines.* – In order that the President and the Congress may secure information and assistance, it shall be the duty of the Commission to:

- (a) Ascertain conversion costs and costs of production in the principal growing, producing or manufacturing centers of the Philippines, whenever practicable;
- (b) Ascertain conversion costs and costs of production in the principal growing, producing or manufacturing centers of foreign countries of articles imported into the Philippines whenever such conversion costs or costs of production are necessary for comparison with those in the Philippines;
- (c) Select and describe representative articles imported into the Philippines similar to, or comparable with, those locally produced; select and describe articles of the Philippines similar to, or comparable with, such imported article; and obtain and file samples of articles so selected whenever advisable;
- (d) Ascertain import costs of such representative articles so selected;

- (e) Ascertain the grower's, producer's or manufacturer's selling prices in the principal growing, producing or manufacturing centers of the Philippines, of the articles of the Philippines, so selected;
- (f) Ascertain all other facts which will show the difference in, or which affect competition between, articles of the Philippines and those imported in the principal markets of the Philippines;
- (g) Ascertain conversion costs and costs of production including effects of tariff modifications or import restrictions on prices in the principal growing, producing or manufacturing centers of the Philippines, whenever practicable; and
- (h) Submit annual reports of these to the President of the Philippines, copy of which shall be furnished to the NEDA, the BSP, the DOF and the Board of Investments.

SEC. 1705. *Reports of the Commission.* – The Commission shall place at the disposal of the President and any Member of the Congress of the Philippines all information at its command. It shall make such investigation and report as may be required by the President and the Congress of the Philippines. And, it shall report to the President and Congress on the first Monday of December of each year and hereafter a statement of methods adopted and a summary of all reports made during the year.

The Commission or its duly authorized representative shall have access to any document, paper or record, pertinent to the subject matter under investigation, in the possession of any person, firm, co-partnership, corporation or association engaged in the production, importation or distribution of any article under investigation, and shall have power to summon witnesses, take testimony, administer oaths, and to issue *subpoena duces tecum* requiring the production of books, papers or documents relating to the matter under investigation. The Commission may also request the views, recommendations

and/or assistance of any government office, agency or instrumentality, and such office, agency or instrumentality shall cooperate fully with the Commission.

SEC. 1706. *Sworn and Verified Statements.* – The Commission may order the taking of sworn statements at any stage of any proceeding or investigation before it. Such sworn statements may be taken before any person having power to administer oaths.

The Commission is authorized to require any importer, grower, producer, manufacturer or seller to file with the Commission a statement, under oath, giving the selling prices in the Philippines of any article imported, grown, produced, fabricated or manufactured by him.

SEC. 1707. *Rules and Regulations of the Commission.* – The Commission shall adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

CHAPTER 2

FLEXIBLE TARIFF

SEC. 1708. *Flexible Clause.* – (a) In the interest of national economy, general welfare and/or national security, and subject to the limitations herein prescribed, the President, upon the recommendation of the National Economic and Development Authority, hereinafter referred to as NEDA, is hereby empowered:

(1) To increase, reduce or remove existing protective rates of import duty (including any necessary change in classification). The existing rates may be increased or decreased to any level, in one or several stages but in no case shall the increased rate of import duty be higher than a maximum of one hundred percent (100%) *ad valorem*;

(2) To establish import quota or to ban imports of any commodity, as may be necessary; and

(3) To impose an additional duty on all imports not exceeding ten percent (10%) *ad valorem* whenever necessary: *Provided*, That upon periodic investigations by the Tariff Commission and recommendation of the NEDA, the President may cause a gradual reduction of protection levels granted in Section 1711 of this Act, including those subsequently granted pursuant to this section.

(b) Before any recommendation is submitted to the President by the NEDA pursuant to the provisions of this section, except in the imposition of an additional duty not exceeding ten percent (10%) *ad valorem*, the Commission shall conduct an investigation in the course of which they shall hold public hearings wherein interested parties shall be afforded reasonable opportunity to be present, produce evidence and to be heard. The Commission shall also hear the views and recommendations of any government office, agency or instrumentality concerned. The Commission shall submit their findings and recommendations to the NEDA within thirty (30) days after the termination of the public hearings.

(c) The power of the President to increase or decrease rates of import duty within the limits fixed in subsection (a) shall include the authority to modify the form of duty. In modifying the form of duty, the corresponding *ad valorem* or specific equivalents of the duty with respect to imports from the principal competing foreign country for the most recent representative period shall be used as basis.

(d) The Commissioner shall regularly furnish the Commission a copy of all customs import entries as filed in the Bureau. The Commission or its duly authorized representatives shall have access to, and the right to copy all liquidated customs import entries and other documents appended thereto as finally filed in the Commission on Audit.

(e) The NEDA shall promulgate rules and regulations necessary to carry out the provisions of this section.

(f) Any order issued by the President pursuant to the provisions of this section shall take effect thirty (30) days after promulgation, except in the imposition of additional duty not exceeding ten percent (10%) *ad valorem* which shall take effect at the discretion of the President.

(g) The power herein delegated to the President shall be exercised only when Congress is not in session.

(h) The power herein delegated may be withdrawn or terminated by Congress through a joint resolution.

SEC. 1709. *Promotion of Foreign Trade.* – (a) For the purpose of expanding foreign markets for Philippine products as a means of assistance in the economic development of the country, in overcoming domestic unemployment, in increasing the purchasing power of the Philippine peso, and in establishing and maintaining better relations between the Philippines and other countries, the President, is authorized from time to time:

(1) To enter into trade agreements with foreign governments or instrumentalities thereof; and

(2) To modify import duties (including any necessary change in classification) and other import restrictions, as are required or appropriate to carry out and promote foreign trade with other countries: *Provided, however,* That in modifying import duties or fixing import quota the requirements prescribed in subsection (a) of Section 1708 shall be observed: *Provided, further,* That any modification of import duties and any fixing of import quotas made pursuant to the agreement on ASEAN Trade in Goods Agreement (ATIGA) and other trade agreements shall not be subject to the limitations of aforesaid Section (a) of Section 1708.

(b) The duties and other import restrictions as modified in subsection (a) above, shall apply to articles which are the growth, produce or manufacture of the specific country, whether imported directly or indirectly, with which the Philippines has entered into a trade agreement: *Provided*, That the President may suspend the application of any concession to articles which are the growth, produce or manufacture of such country because of acts (including the operations of international cartels) or policies which tend to defeat the purposes set in this section; and the duties and other import restrictions as negotiated shall be in force and effect from and after such time as specified in the order.

(c) Nothing in this section shall be construed to give any authority to cancel or reduce in any manner any of the indebtedness of any foreign country to the Philippines or any claim of the Philippines against any foreign country.

(d) Before any trade agreement is concluded with any foreign government or instrumentality thereof, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the Commission which shall seek information and advice from the Department of Agriculture, the DENR, the DTI, the DOT, the BSP, the DFA, the Board of Investments and from such other sources as it may deem appropriate.

(e)(1) In advising the President, as a result of the trade agreement entered into, the Commission shall determine whether the domestic industry has suffered or is being threatened with injury and whether the wholesale prices at which the domestic products are sold are reasonable, taking into account the cost of raw materials, labor, overhead, a fair return on investment, and the overall efficiency of the industry.

(2) The NEDA shall evaluate the report of the Commission and submit recommendations to the President.

(3) Upon receipt of the report of the findings and recommendations of the NEDA, the President may prescribe such adjustments in the rates of import duties, withdraw, modify or suspend, in whole or in part, any concession under any trade agreement, establish import quota, or institute such other import restrictions as the NEDA recommends to be necessary in order to fully protect domestic industry and the consumers, subject to the condition that the wholesale prices of the domestic products concerned shall be reduced to, or maintained at, the level recommended by the NEDA unless for good cause shown, an increase thereof, as recommended by the NEDA, is authorized by the President. Should increases be made without such authority, the NEDA shall immediately notify the President, who shall allow the importation of competing products in such quantities as to protect the public from the unauthorized increase in wholesale prices.

(f) This section shall not prevent the effectivity of any executive agreement or any future preferential trade agreement with any foreign country.

(g) The NEDA and the Commission are authorized to promulgate such reasonable procedures, rules and regulations as they may deem necessary to execute their respective functions under this section.

CHAPTER 3

TARIFF NOMENCLATURE AND RATE OF DUTY

SEC. 1710. *General Rules for the Interpretation (GRI)*. – The classification of goods and its tariff nomenclature as provided pursuant to this Act shall be governed by the following principles:

(a) The titles of sections, chapters and subchapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions;

(b)(1) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished: *Provided*, That, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule) presented unassembled or disassembled.

(2) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule (c).

(c) When by application of Rule (b)(2) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(1) The heading which provides the most specific description shall be preferred to headings providing a more general description.

However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;

- (2) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (c)(1), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable; and
- (3) When goods cannot be classified by reference to (c)(1) or (c)(2), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration;
- (d) Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin;
- (e) In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:
 - (1) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. The Rule does not, however, apply to containers which give the whole its essential character; and

- (2) Subject to the provisions of the Rule (e)(1) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use; and
- (f) For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the Rule, the relative section and chapter notes also apply, unless the context otherwise requires.

SEC. 1711. *Tariff Nomenclature and Rates of Import Duty.* – The provisions of Section 104 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, specifically providing for the tariff sections, chapters, headings and subheadings and the rates of import duty, shall still apply. There shall be levied, collected and paid upon all imported articles the rates of duty indicated thereon except as otherwise specifically provided for in this Act: *Provided*, That the maximum rate shall not exceed one hundred percent (100%) *ad valorem*.

- (a) The rates of duty provided or subsequently fixed pursuant to Sections 1708 and 1709 of this Act shall be subject to periodic investigation by the Tariff Commission and may be revised by the President, upon the recommendation of the NEDA.
- (b) The rates of duty provided shall apply to all products, whether imported directly or indirectly, of all foreign countries, which do

not discriminate against Philippine export products an additional one hundred percent (100%) across-the-board duty shall be levied on the products of any foreign country which discriminates against Philippine export products.

SEC. 1712. *Tariff Nomenclature and Rates of Export Duty.* – The provisions of Section 514 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of 1978, as amended, specifically providing for the export products subject to duty and rates, shall still apply.

SEC. 1713. *Rules and Regulations.* – The Commissioner of Customs shall promulgate the rules and regulations necessary for the implementation of this chapter, subject to the approval of the Secretary of Finance.

TITLE XVIII

CONGRESSIONAL OVERSIGHT COMMITTEE

SEC. 1800. *Congressional Oversight Committee.* – A Congressional Oversight Committee, hereinafter referred to as the Committee, is hereby constituted in accordance with the provisions of this Act. The Committee shall be composed of the Chairpersons of the Committee on Ways and Means of the Senate and House of Representatives and four (4) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Committee shall, among others, in aid of legislation:

- (a) Monitor and ensure the proper implementation of CMTA;
- (b) Review the collection performance of the Bureau; and
- (c) Review the implementation of the programs of the Bureau.

In furtherance of the hereinabove cited objectives, the Committee is empowered to require of the Bureau the submission of all pertinent information, including but not limited to:

- (1) Industry audits;

- (2) Collection performance data; and
- (3) Status report on criminal actions initiated against persons.

TITLE XIX

FINAL PROVISIONS

SEC. 1900. *Implementing Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs, promulgate the necessary rules and regulations for the effective implementation of this Act.

The Secretary of Finance shall, upon the recommendation of the Commissioner, issue the necessary rules and regulations to implement the transitional standards provided under the Revised Kyoto Convention (Convention on the Simplification and Harmonization of Customs Procedures) within five (5) years from the date of accession but not earlier than three (3) years.

SEC. 1901. *Repealing Clause.* – Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, as amended, is hereby expressly repealed except Section 104 (Rates of Import Duty) and Section 514 (Export Products Subject to Duty and Rates) thereof which shall remain valid and effective and shall form part of this Act. All other laws, acts, presidential decrees, executive orders, rules and regulations or parts thereof, in conflict or inconsistent with the provisions of this Act, are hereby expressly repealed.

SEC. 1902. *Transitory Provisions.* – All suits, proceedings or prosecutions whether civil or criminal, for causes arising or acts done or committed prior to the effectivity of this Act, shall be commenced and/or prosecuted within the same time in the same manner and with the same effect as if this Act had not been enacted and all rights acquired, offences committed

and penalties forfeitures or liabilities waived prior to the said effectivity shall not be affected thereby.

SEC. 1903. *Separability Clause.* – If any provision or part of this Act is declared invalid or unconstitutional, the remaining provisions or parts shall remain in full force and effect.

SEC. 1904. *Effectivity Date.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,

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