

TARIFF AND CUSTOMS CODE OF THE PHILIPPINES (TCCP) VOLUME I

TITLE 1. - IMPORT TARIFF

SEC. 100. Imported Articles Subject to Duty.

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 Code or in other laws.

SEC. 101. Prohibited Importations.

The importation into the Philippines of the following articles is prohibited:

1. Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof, except when authorized by law.
2. Written or printed articles in any form containing any matter advocating or inciting treason, or rebellion, insurrection, sedition or subversion 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.
3. Written or printed articles, negatives or cinematographic film, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character.
4. 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.
5. 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.
6. Lottery and sweepstakes tickets except those authorised by the Philippine Government, advertisements thereof, and lists of drawings therein.
7. 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.
8. Any adulterated or misbranded articles of food or any adulterated or misbranded drug in violation of the provisions of the "Food and Drugs Act".
9. Marijuana, opium, poppies, coca leaves, heroin or any 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 authorised by the Dangerous Drugs Board, for medicinal purposes only.

10. Opium pipes and parts thereof, of whatever material.

All other articles and parts thereof, the importation of which is prohibited by law or rules and regulations issued by competent authority. (As amended by Presidential Decree No. 34)

SEC. 102. Abbreviations.

The following abbreviations used in this Code shall represent the terms indicated:

ad val.	For ad valorem.
e.g.	For exempli gratia meaning for example'.
i.e.	For'id est' meaning 'that is'.
hd.	For head.
kg	For kilogram.
kgs	For kilograms.
l	For litre.
g.w.	For gross weight.
l.w.	For legal weight.
n.w.	For net weight.

SEC. 103. General Rules for the Interpretation of the Harmonized System.

Classification of goods in the Nomenclature shall be governed by the following principles:

1. The titles of Sections, Chapters and Sub -Chapters 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.

2. (a) 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.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

a. The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

c. When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

1. 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.

2. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:

a. Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain 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; Subject to the provisions of the Rule 5 (a) above, packing materials and packing containers presented

3. 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. 104. Rates of Import Duty.

All Tariff Sections, Chapters, headings and subheadings and the rates of import duty under Section 104 of Presidential Decree No. 34 and all subsequent amendment issues under Executive Orders and Presidential Decrees are hereby adopted and form part of this Code.

There shall be levied, collected, and paid upon all imported articles the rates of duty indicated in the Section under this Section except as otherwise specifically provided for in this Code: Provided, that, the maximum rate shall not exceed one hundred per cent ad valorem.

The rates of duty herein provided or subsequently fixed pursuant to Section four hundred one of this Code shall be subject to periodic investigation by the Tariff Commission and may be revised by the President upon recommendation of the National Economic and Development Authority.

The rates of duty herein 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 100% across-the-board duty shall be levied on the products of any foreign country which discriminates against Philippine export products.

The tariff Sections, Chapters, headings and subheadings and the rate of import duty under Section One Hundred Four of this Code shall be as follows:

SECTION 105. Conditionally-Free Importations.

The following articles shall be exempt from the payment of import duties upon compliance with the bed in, or with, the regulations which shall be promulgated by the Commissioner of Customs with Secretary of Finance; Provided, That any article sold, bartered, hired or used for purposes 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: 7. -c e importation shall constitute a fraudulent practice against customs revenue punishable under Section Thirty-six hundred and two, as amended, of this Code; 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 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:

1. 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: And provided, further, That they have not been landed in any foreign territory or, if so landed, they have been landed solely for transshipment with - -T having been advanced in condition;

2. 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 and one-half times 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;

3. 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;

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 and one-half times 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 import entry -,

4. Medals, badges, cups and other small articles bestowed as trophies or prizes, or those received or accepted as honorary distinction;

5. 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 hire and that the total dutiable value of which shall not exceed Ten Thousand Pesos (P -10,000.00): 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 per cent (50%) ad valorem duty across the board shall be levied and collected on the personal and household effects (except luxury items) in excess of Ten Thousand Pesos (4210,000.00). 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.

a. In addition to the privilege 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 Ten Thousand Pesos (P10,000.00) 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 Code. For purposes of this section, the following words/phrases shall be understood to mean: (a) 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. (b) Calendar Year – shall cover the period from January 1 to December 31.

6. 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 and one-half times 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 import entry: And 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;

a. 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 and one-half times 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; And Provided, finally, That the Collector of Customs may extend the time for exportation or payment of duties, taxes and other charges for term not exceeding six (6) months from the expiration of the original period;

7. 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, before or after the arrival of their owners, which shall not be later than February 28, 1979 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 Instructions 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;

8. 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 and one-half times 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 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; 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 said films is exhibited for profit, the proceeds therefrom shall be subject to confiscation, in addition to the penalty provided under Section Thirty-six hundred and ten as amended, of this Code;

9. 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 and one-half times 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 import entry, 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 a* 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;

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

11. 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 Services and Development or the Department of Education, Culture and Sports. as the case may be;

12. 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 and one-half times the ascertained duties, taxes and other charges within six (6) months from the date of acceptance of the import entry;

13. 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 any collection district to any vessel or aircraft engaged in foreign trade, for use or consumption 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;

14. Articles and salvage from vessels recovered after a period of two (2) years from the date of filling 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;

15. Coffins or urns containing human remain, bones or ashes, used personal and household effects (not merchandise) of the deceased person, except vehicles, the value of which does not exceed Ten Thousand Pesos (P10,000), upon identification as such;

16. Samples of the kind, in such quantity and of such dimension or construction as to render them unsalable 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, however, 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 (e.g., 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 ten thousand pesos (P -10,000) upon the giving of a bond in an amount equal to twice 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 import entry 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 ten thousand pesos (P -10,000), the importer thereof may select any portion of same not exceeding in value of ten thousand pesos (P10,000) for entry under the consumption, as the importer may elect;

17. 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: And Provided, finally, That the animals and plants are certified by the National Economic and Development Authority as necessary for economic development;

18. 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 of Customs at the effectivity of this Decree may still enjoy the privilege herein provided upon certification by the Department of Education, Culture and Sports 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 Department of Education, Culture and Sports. Bibles, missals, prayer books, Koran, Ahadith and other religious books of similar nature and extracts therefrom, hymnal and hymns for religious uses;

19. 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;

20. 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;

21. Machineries, equipment, tools for production, plants to convert mineral ores into saleable form, spare parts, supplies, materials, accessories, explosives, chemicals, and transportation and communication 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 Agriculture 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;

22. 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 ;

23. Articles of easy identification exported from the Philippines for repair and subsequently reimported upon proof satisfactory to the Collector of Customs that such articles is not capable

:r being repaired locally: Provided, That the cost of the repairs made to any such article shall pa., s rate of duty of thirty per cent ad valorem;

24. 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 and one - half times the ascertained duties, taxes and other charges due thereon to cover a period of one 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:

- a. That they shall be properly identified and registered with the Land Transportation Commission;
- b. 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;
- c. That they shall be deposited in the Customs zone when not in use; and
- d. That upon the expiration of the period prescribed above, duties and taxes shall be paid unless otherwise re -exported.

The provisions of Sec. 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 personnel of the Reparations Mission in Tokyo or AFP military personnel detailed with SEATO or any 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 Decree, shall be exempt from the payment of all duties and taxes on his personal and household effects, including one 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 per centum (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 years; Provided, further, That this exemption shall not be availed of oftener than once every four years; And, Provided, finally, That the officer or employee concerned must have served abroad for not less than two 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 Code; those granted to government agencies, instrumentalities or government -owned or controlled corporations with existing contracts, commitments, agreements, or obligations (requiring such exemption) with foreign countries; 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 National Economic and Development Authority in the interest of national economic development.

SECTION 106. Drawbacks.

1. 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 (99) per cent of the duty imposed by law upon such fuel, which shall be paid or credited under such rules and regulations as maybe prescribed by the Commissioner of Customs with the approval of the Secretary of Finance.

2. 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 non -electric 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 per cent (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.

3. 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:

a. 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;

b. The duties refunded or credited shall not exceed one hundred (100) per cent of duties paid on the imported materials used;

c. There is no determination by the National Economic and Development Authority of the requirement for certification on non -availability of locally -produced or manufactured competitive substitutes for the imported materials used at the time of importation:

d. 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;

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

For every application of a drawback, there shall be paid to and collected by the Bureau of Customs as filing, processing and supervision fees the sum of Five Hundred Pesos (12500.00) which amount may be increased or decreased when the need arises by the Secretary of Finance upon the recommendation of the Commissioner of Customs.

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

5. Payment of the Drawbacks. - Claims for refund or tax credit eligible for such benefits shall be paid or granted by the Bureau of Customs to claimants within sixty (60) days after receipt of properly accomplished claims: Provided, That a registered enterprise under Republic Act Number Fifty -one hundred and eighty -six or Republic Act Numbered Sixty -one hundred and thirty five 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.

TITLE 11. ADMINISTRATIVE PROVISIONS

PART 1. - BASES OF ASSESSMENT OF DUTY

SECTION 201. Basis of Dutiable Value. -

(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;

(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 additions 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 Custom deems that he will experience 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; and

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

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

If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued in the Philippines in the conditions 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 of Customs 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 impossible 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 satisfy himself as to 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, his 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. " (As amended by Republic Act No. 9135 dated 27 April 2001)

SECTION 202. Bases 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.
- (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 Code as to the dutiability or non -dutiability of such packing.

SECTION 203. Rate of Exchange.

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 Central Bank of the Philippines.

SECTION 204. Effective Date of Rates of Import Duty.

Imported articles shall be subject to the rate or rates of import duty existing at the time of entry. or withdrawal from warehouse, in the Philippines, for consumption.

On and after the day when this Code shall go into effect, all articles previously imported, for which no entry has been made, and all articles previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of

delivery to the importer or his agent has been issued, shall be subject to the rates of duty imposed by this Code and to no other duty, upon the entry, or withdrawal thereof from warehouse, 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.

SECTION 205. Entry, or Withdrawal from Warehouse, for Consumption.

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 documents required by the provisions of this Code and/or 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 documents required by any provisions of this Code and/or 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 required to be paid at the time of withdrawal have been deposited with the customs official designated to receive such payment.

PART 2. - SPECIAL DUTIES

SECTION 301. Anti -Dumping Duty. -

(a) Whenever any product, commodity or article of commerce imported into the Philippines at an export price less than its normal value in the ordinary course of trade for the like product, commodity or article destined for consumption in the exporting country is causing or is threatening to cause material injury to a domestic industry, or materially retarding the establishment of a domestic industry producing the like product, the Secretary of Trade and Industry, in the case of non -agricultural product, commodity or article, or the Secretary of Agriculture, in the case of agricultural product, commodity or article (both of whom are hereinafter referred to as the Secretary, as the case may be), after formal investigation and affirmative finding of the Tariff Commission (hereinafter referred to as the Commission), shall cause the imposition of an anti -dumping duty equal to the margin of dumping on such product, commodity or article and on like product, commodity or article thereafter imported to the Philippines under similar circumstances, in addition to ordinary duties, taxes and charges imposed by law on the imported product, commodity or article. However, the anti -dumping duty may be less than the margin if such lesser duty will be adequate to remove the injury to the domestic industry. Even when all the requirements for the imposition have been fulfilled, the decision on whether or not to impose a definitive anti -dumping duty remains the prerogative of the Commission. It may consider, among others, the effect of imposing an anti -dumping duty on the welfare of consumers and/or the general public, and other related local industries.

In the case where products are not imported directly from the country of origin but are exported to the Philippines from an intermediate country, the price at which the products are sold from the country of export in the Philippines shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if for example, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

(b) Initiation of Action. An anti-dumping investigation may be initiated upon receipt of a written application from any person whether natural or juridical, representing a domestic industry, which shall include evidence of: a) dumping, b) injury, and c) causal link between the dumped imports and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph. The application shall contain such information as is reasonably available to the applicant on the following: 1) the identity of the applicant and a description of the volume and the value of the domestic production of the like product of the applicant; 2) a complete description of the alleged dumped product, the name of the country of origin or export under consideration, the identity of each known exporter or foreign producer, and a list of known persons importing the product under consideration; 3) information on the normal value of the product under consideration in the country of origin or export; and 4) information on the evolution of the volume of the alleged dumped imports, the effect of these imports on the price of the like product in the domestic market, and the consequent impact of the imports on the domestic industry.

"Philippine Trade, Agriculture or Finance Attaches and other Consular Officials or Attachés in the concerned exporting member countries are mandated to furnish the applicant pertinent information or documents to support his complaint within a period not exceeding thirty (30) days from receipt of a request.

"The application shall be filed with the Secretary of Trade and Industry in the case of non - agricultural product, commodity or article, or with the Secretary of Agriculture in the case of agricultural product, commodity or article. The Secretary shall require the petitioner to post a surety bond in such reasonable amount as to answer for any and all damages which the importer may sustain by reason of the filing of a frivolous petition. He shall immediately release the surety bond upon making an affirmative preliminary determination.

"The application shall be considered to have been made "by or on behalf of the domestic industry " if it is supported by those domestic producers whose collective output constitutes more than fifty percent (50%) of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. In cases involving an exceptionally large number of producers, the degree of support and opposition may be determined by using a statistically valid sampling technique or by consulting their representative organizations. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than twenty -five percent (25%) of total production of the like product produced by the domestic industry.

"in exceptional circumstances, the Philippines may be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market have the dominant market share; and (b) the demand in that market is not substantially supplied by other producers elsewhere in the Philippines.

"if, in special circumstances, the Secretary decides to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, he shall proceed only if he has sufficient evidence of dumping, injury and a causal link, to justify the initiation of an investigation.

"Within five (5) working days from receipt of a properly documented application, the Secretary shall examine the accuracy and adequacy of the petition to determine whether there is sufficient evidence to justify the initiation of investigation. If there is no sufficient evidence to justify initiation, the Secretary shall dismiss the petition and properly notify the Secretary of Finance, the Commissioner of Customs, and other parties concerned regarding such dismissal. The Secretary shall extend legal, technical, and other assistance to the concerned domestic producers and their organizations at all stages of the anti -dumping action.

"(c) Notice to the Secretary of Finance. - Upon receipt of the application, the Secretary shall, without delay, notify the Secretary of Finance and furnish him with a complete copy of the application, or information in case the initiation is made on his own motion including its annexes, if any. The Secretary of Finance shall immediately inform the Commissioner of Customs regarding the filing and pendency of the application or information and instruct him to gather and to furnish the Secretary within five (5) days from receipt of the instructions of the Secretary of Finance copies of all import entries and relevant documents covering such allegedly dumped product, commodity or article which entered the Philippines during the last twelve (12) months preceding the date of application. The Commissioner of Customs shall also make such similar additional reports on the number, volume, and value of the importation of the allegedly dumped product, commodity or article to the Secretary every ten (10) days thereafter.

"(d) Notice to Exporting Member -Country. - Upon receipt of a properly documented application and before proceeding to initiate an investigation, the Secretary shall notify the government of the exporting country about the impending anti -dumping investigation. However, the Secretary shall refrain from publicizing the application for the initiation of the investigation before a decision has been made to initiate an investigation.

"(e) Notice to Concerned Parties and Submission of Evidences. - Within two (2) days from initiation of the investigation and after having notified the exporting country, the Secretary shall identify all interested parties, i.e., protestee -importer, exporter and/or foreign producer, notify and require them to submit within thirty (30) days from receipt of such notice evidences and information or reply to the questionnaire to dispute the allegations contained in the application. At this point, the respondent is given the opportunity to present evidences to prove that he is not involved in dumping. He shall furnish them with a copy of the application and its annexes subject to the requirement to protect confidential information. The notice shall be deemed to have been received five (5) days from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting member, or an official representative of the exporting territory. If the respondent fails to submit his answer, he shall be declared in default, in which case, the Secretary shall make such preliminary determination of the case on the basis of the information available, among others, the facts alleged in the petition and the supporting information and documents supplied by the petitioner.

"(f) Preliminary Determination. - Not later than thirty (30) working days from receipt of the answer of the respondent importer, exporter, foreign producer, exporting member -country, and other interested parties, the Secretary shall, on the basis of the application of the aggrieved

party and the answer of the respondent/s and their respective supporting documents or information, make a preliminary determination of the application for the imposition of an anti - dumping duty.

"in the preliminary determination, the Secretary shall essentially determine the following:

"(1) Price difference between the export price and the normal value of the article in question in the country of export or origin;

"(2) The presence and extent of material injury or threat of injury to the domestic industry producing like product or the material retardation of the establishment of a domestic industry; and

"(3) The causal relationship between the allegedly dumped product, commodity or article and the material injury or threat of material injury to the affected domestic industry or material retardation of the establishment of the domestic industry.

"The preliminary finding of the Secretary, together with the records of the case shall, within three (3) days, be transmitted by the Secretary to the Commission for its immediate formal investigation. In case his preliminary finding is affirmative, the burden of proof is shifted to the respondent to rebut the preliminary finding. The Secretary shall immediately issue, through the Secretary of Finance, written instructions to the Commissioner of Customs to impose within three (3) days from receipt of instructions a cash bond equal to the provisionally estimated anti - dumping duty but not greater than the provisionally estimated margin of dumping in addition to any other duties, taxes and charges imposed by law on like articles. The cash bond shall be deposited with the government depository bank and shall be held in trust for the respondent. Moreover, the posting of the cash bond shall only be required no sooner than sixty (60) days from the date of initiation of the investigation. The date of initiation of the investigation is deemed to be the date the Secretary publishes such notice in two (2) newspapers of general circulation. The Secretary shall cause such publication immediately after a decision to initiate the investigation has been made. The provisional anti -dumping duty may only be imposed for a four (4) -month period which may be extended to six (6) months upon request by the exporters representing a significant percentage of the trade involved. However, a provisional anti - dumping duty lower than the provisionally estimated margin of dumping can be imposed for a period of six (6) to nine (9) months, if it is deemed sufficient to remove or prevent the material injury.

"(g) Termination of Investigation. - The Secretary or the Commission as the case may be, shall *motu proprio* terminate the investigation at any stage of the proceedings if the provisionally estimated margin of dumping is less than two percent (2%) of export price or the volume of dumped imports or injury is negligible. The volume of dumped imports from a particular country shall normally be regarded as negligible if it accounts for less than three percent (3%) of the imports of the like article in the Philippines unless countries which individually account for less than three percent (3%) of the imports of the like article in the Philippines collectively account for more than seven percent (7%) of the total imports of that article.

"(h) Investigation of the Commission. - Within three (3) working days upon its receipt of the records of the case from the Secretary, the Commission shall start the formal investigation and shall accordingly notify in writing all parties on record and, in addition, give public notice of the

exact initial date, time and place of the formal investigation through the publication of such particulars and a concise summary of the petition in two (2) newspapers of general circulation.

"In the formal investigation, the Commission shall essentially determine the following:

"(1) If the article in question is being imported into, or sold in the Philippines at a price less than its normal value; and the difference, if any, between the export price and the normal value of the article.

"(2) The presence and extent of material injury or the threat thereof to the domestic industry, or the material retardation of the establishment of a domestic industry;

"(3) The existence of a casual relationship between the allegedly dumped product, commodity or article and the material injury or threat of material injury to the affected domestic industry, or material retardation of the establishment of a domestic industry;

"(4) The anti -dumping duty to be imposed; and

"(5) The duration of the imposition of the anti -dumping duty.

"The formal investigation shall be conducted in a summary manner. No dilatory tactics or unnecessary or unjustified delays shall be allowed and the technical rules of evidence used in regular court proceedings shall not be applied.

" In case any and all of the parties on record fail to submit their answers to questionnaires/position papers within the prescribed period, the Commission shall base its findings on the best available information.

"The Commission shall complete the formal investigation and submit a report of its findings, whether favorable or not, to the Secretary within one hundred twenty (120) days from receipt of the records of the case: Provided, however, That the Commission shall, before a final determination is made, inform all the interested parties in writing of the essential facts under consideration which form the basis for the decision to apply definitive measures. Such disclosure should take place in sufficient time for the parties to defend their interests.

"(i) Determination of Material Injury or Threat Thereof. - The presence and extent of material injury to the domestic industry, as a result of the dumped imports shall be determined on the basis of positive evidence and shall require an objective examination of, but shall not be limited to the following:

"(1) The rate of increase and amount of imports, either in absolute terms or relative to production or consumption in the domestic market;

"(2) The effect of the dumped imports on the price in the domestic market for like product, commodity or article, that is, whether there has been a significant price undercutting by the dumped imports as compared with the price of like product, commodity or article in the domestic market, or whether the effect of such imports is otherwise to depress prices to a significant -

degree or prevent price increases, which otherwise would have occurred, to a significant degree; and

"(3) The effect of the dumped imports on the domestic producers or the resulting retardation of the establishment of a domestic industry manufacturing like product, commodity or article, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry concerned, such as, but not limited to, actual or potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, and ability to raise capital or investments.

"The extent of injury of the dumped imports to the domestic industry shall be determined by the Secretary and the Commission upon examination of all relevant evidence. Any known factors other than the dumped imports which at the same time are injuring the domestic industry shall also be examined and the injuries caused by these factors must not be attributed to the dumped imports. The relevant evidence may include, but shall not be limited to, the following:

- "(1) The volume and value of imports not sold at dumping prices;
- "(2) Contraction in demand or changes in consumption pattern;
- "(3) Trade restrictive practices and competition between foreign and domestic producers;
- "(4) Developments in technology; and
- "(5) Export performance and productivity of the domestic industry.

"A determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which will create a situation in which the dumping will cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the following shall be considered, inter alia, collectively:

- "(1) A significant rate of increase of the dumped imports in the domestic market indicating the likelihood of substantially increased importation;
- "(2) Sufficient freely disposable, or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to the domestic market, taking into account the availability of other export markets to absorb any additional exports;
- "(3) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and will likely increase demand for further imports; and
- "(4) Inventories of the product being investigated.

"(j) voluntary price undertaking executed by the exporter or foreign producer under oath and accepted by the affected industry that he will increase his price or will cease exporting to the Philippines at a dumped price, thereby eliminating the material injury to the domestic industry producing like product. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping.

"A price undertaking shall be accepted only after a preliminary affirmative determination of dumping and injury caused by such dumping has been made. No price undertaking shall take effect unless it is approved by the Secretary after a recommendation by the Commission.

"Even if the price undertaking is acceptable, the investigation shall nevertheless be continued and completed by the Commission if the exporter or foreign producer so desires or upon advice of the Secretary. The undertaking shall automatically lapse in case of a negative finding. In case of any affirmative finding, the undertaking shall continue, consistent with the provisions of Article VI of the GATT 1994.

"(k) Cumulation of Imports. - When imports of products, commodities or articles from more than one country are simultaneously the subject of an anti -dumping investigation, the Secretary or the Commission may cumulatively assess the effects of such imports only if the Secretary and the Commission are convinced that:

"(1) The margin of dumping established in relation to the imports from each country is more than de minimis as defined in Subsection G;

"(2) The volume of such imports from each country is not negligible, also as defined in Subsection G; and

"(3) A cumulative assessment of the effects of such imports is warranted in the light of the conditions of competition between the imported products, commodities or articles, and the conditions of competition between the imported products and the like domestic products, commodities or articles.

"(i) Imposition of the Anti -Dumping Duty. - The Secretary shall, within ten (10) days from receipt of the affirmative final determination by the Commission, issue a Department Order imposing an anti -dumping duty on the imported product, commodity or article, unless he has earlier accepted a price undertaking from the exporter or foreign producer. He shall furnish the Secretary of Finance with the copy of the order and request the latter to direct the Commissioner of Customs to collect within three (3) days from receipt thereof the definitive anti-dumping duty.

"in case a cash bond has been filed, the same shall be applied to the anti -dumping duty assessed. If the cash bond is in excess of the anti -dumping duty assessed, the remainder shall be returned to the importer immediately including interest earned, if any: Provided, That no interest shall be payable by the government on the amount to be returned. If the assessed anti -dumping duty is higher than the cash bond filed, the difference shall not be collected.

"Upon determination of the anti -dumping duty, the Commissioner of Customs shall submit to the Secretary, through the Secretary of Finance, certified reports on the disposition of the cash bond and the amounts of the anti -dumping duties collected.

"In case of a negative finding by the Commission, the Secretary shall issue, after the lapse of the period for the petitioner to appeal to the Court of Tax Appeals, through the Secretary of Finance, an order for the Commissioner of Customs for the immediate release of the cash bond to the importer. In addition, all the parties concerned shall also be properly notified of the dismissal of the case.

"(m) Period Subject to Anti -Dumping Duty. - An anti -dumping duty may be levied retroactively from the date the cash bond has been imposed and onwards, where a final determination of injury is made, or in the absence of provisional measures, a threat of injury has led to actual injury. Where a determination of threat of injury or material retardation is made, anti -dumping duties may be imposed only from the date of determination thereof and any cash bond posted shall be released in an expeditious manner. However, an anti -dumping duty may be levied on products which were imported into the country not more than ninety (90) days prior to the date of application of the cash bond, when the authorities determine for the dumped product in question that:

"(1) There is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and "(2) The injury is caused by massive dumped imports of a product in a relatively short time which in light of the timing and the volume of the dumped imports and other circumstances (such as rapid build -up of inventories of the imported product) is likely to seriously undermine the remedial effect of the definitive antidumping duty to be applied: Provided, That the importers concerned have been given an opportunity to comment.

"No duties shall be levied retroactively pursuant to herein subsection on products entered for consumption prior to the date of initiation of the investigation.

"(n) Computation of Anti-Dumping Duty. – If the normal value of an article cannot be determined, the provisions for choosing alternative normal value under Article VI of GATT 1994 shall apply.

"If possible, an individual margin of dumping shall be determined for each known exporter or producer of the article under investigation. In cases where the number of exporters, producers, importers or types of products involved is so large as to make such determination impracticable, the Secretary and the Commission may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to them at the time of the selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

"However, if a non -selected exporter or producer submits information, the investigation must extend to that exporter or producer unless this will prevent the timely completion of the investigation.

"New exporters or producers who have not exported to the Philippines during the period of investigation will be subject to an accelerated review. No anti -dumping duties shall be imposed during the review. Cash bonds may be requested to ensure that in case of affirmative findings, anti -dumping duties can be levied retroactively to the date of initiation of the review.

"(o) Duration and Review of the Anti -Dumping Duty. - As a general rule, the imposition of an antidumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing or threatening to cause material injury to the domestic industry or material retardation of the establishment of such industry.

"However, the need for the continued imposition of the anti -dumping duty may be reviewed by the Commission when warranted *motu proprio*, or upon the direction of the Secretary, taking into consideration the need to protect the existing domestic industry against dumping.

"Any interested party with substantial positive information may also petition the Secretary for a review of the continued imposition of the anti -dumping duty: Provided, That a reasonable period of time has elapsed since the imposition of the anti -dumping duty. Interested parties shall have the right to request the Secretary to examine: 1) whether the continued imposition of the anti -dumping duty is necessary to offset dumping; and 2) whether the injury would likely continue or recur if the anti -dumping duty were removed or modified, or both.

"If the Commission determines that the anti -dumping duty is no longer necessary or warranted, the Secretary shall, upon its recommendation, issue a department order immediately terminating the imposition of the anti -dumping duty. All parties concerned shall be notified accordingly of such termination, including the Secretary of Finance and the Commissioner of Customs.

"The duration of the definitive anti -dumping duty shall not exceed five (5) years from the date of its imposition (or from the date of the most recent review if that review has covered both dumping and injury) unless the Commission has determined in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable time period prior to the termination date that the termination of the anti -dumping duty will likely lead to the continuation or recurrence of dumping and injury.

"The provisions of this Section regarding evidence and procedures shall apply to any review carried out under this Subsection and any such review should be carried out expeditiously and should be conducted not later than one hundred fifty (150) days from the date of initiation of such review.

"(p) Judicial Review. - Any interested party in an anti -dumping investigation who is adversely affected by a final ruling in connection with the imposition of an anti -dumping duty may file with the Court of Tax Appeals, a petition for the review of such ruling within thirty (30) days from his receipt of notice of the final ruling: Provided, however, That the filing of such petition for review shall not in any way stop, suspend, or otherwise hold the imposition or collection, as the case may be, of the anti -dumping duty on the imported product, commodity or article. The rules of procedure of the court on the petition for review filed with the Court of Tax Appeals shall be applied.

"(q) Public Notices. - The Secretary or the Commission shall inform in writing all interested parties on record and, in addition, give public notices by publishing in two (2) newspapers of general circulation when:

"(1) Initiating an investigation;

- "(2) Concluding or suspending investigation;
- "(3) Making any preliminary or final determination whether affirmative or negative;
- "(4) Making a decision to accept or to terminate an undertaking; and
- "(5) Terminating a definitive anti -dumping duty.

Commissioner of Customs a list of imported products susceptible to unfair trade practices. The Commissioner of Customs is hereby mandated to submit to the Secretary monthly reports covering importations of said products, including but not limited to the following:

- "(1) Commercial invoice;
- "(2) Bill of lading;
- "(3) Import entries; and
- "(4) Pre -shipment reports.

"Failure to comply with the submission of such report as provided herein shall hold the concerned officials liable and shall be punished with a fine not exceeding the equivalent of six (6) months salary or suspension not exceeding one (1) year.

"(s) Definition of Terms. - For purposes of this Act, the following definitions shall apply:

"(1) Anti -dumping duty refers to a special duty imposed on the importation of a product, commodity or article of commerce into the Philippines at less than its normal value when destined for domestic consumption in the exporting country, which is the difference between the export price and the normal value of such product, commodity or article.

"(2) Export price refers to (1) the ex -factory price at the point of sale for export; or (2) the F.O.B. price at the point of shipment. In cases where (1) or (2) cannot be used, then the export price may be constructed based on such reasonable basis as the Secretary or the Commission may determine.

"(3) Normal value refers to a comparable price at the date of sale of the like product, commodity or article in the ordinary course of trade when destined for consumption in the country of export.

"(4) Domestic industry refers to the domestic producers as a whole of the like product or to those of them whose collective output of the product constitutes a major related to the exporters or importers or are themselves importers of the allegedly dumped product, the term 'domestic industry' may be interpreted as referring to the rest of the producers.

"(5) Dumped import product refers to any product, commodity or article of commerce introduced into the Philippines at an export price less than its normal value in the ordinary course of trade, for the like product, commodity or article destined for consumption in the

exporting country, which is causing or is threatening to cause material injury to a domestic industry, or materially retarding the establishment of a domestic industry producing the like product.

"(6) Like product refers to a product which is identical or alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

"(7) Non -selected exporter or producer refers to an exporter or producer who has not been initially chosen as among the selected exporters or producers of the product under investigation.

"(t) Administrative Support. - Upon the effectivity of this Act, the Departments of Trade and Industry, Agriculture and the Tariff Commission, shall ensure the efficient and effective implementation of this Act by creating a special unit within their agencies that will undertake the functions relative to the disposition of antidumping cases. All anti -dumping duties collected shall be earmarked for the strengthening of the capabilities of these agencies to undertake their responsibilities under this Act. " (As amended by Republic Act No. 8752 dated 12 August 1999)

"SECTION 302. Countervailing Duty. -

"Whenever any product, commodity or article of commerce is granted directly or indirectly by the government in the country of origin or exportation, any kind or form of specific subsidy upon the production, manufacture or exportation of such product, commodity or article, and the importation of such subsidized product, commodity or article has caused or threatens to cause material injury to a domestic industry or has materially retarded the growth or prevents the establishment of a domestic industry as determined by the Tariff Commission (hereinafter referred to as the 'Commission'), the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, or the Secretary of Agriculture, in the case of agricultural product, commodity or article (both of whom are hereinafter simply referred to as 'the Secretary,' as the case may be) shall issue a department order imposing a countervailing duty equal to the ascertained amount of the subsidy. The same levy shall be imposed on the like product, commodity or article thereafter imported to the Philippines charges imposed by law on such imported product, commodity or article.

"(A) Initiation of Action. - A countervailing action may be initiated by the following:

"(1) Any person, whether natural or juridical, who has an interest to protect, by filing a verified petition for the imposition of a countervailing duty by or on behalf of the domestic industry;

"(2) The Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be, in special circumstances where there is sufficient evidence of an existence of a subsidy, injury and causal link.

"(B) Requirements. - A petition shall be filed with the Secretary and shall be accompanied by documents, if any, which are reasonably available to the petitioner and which contain information supporting the facts that are essential to establish the presence of the elements for the imposition of a countervailing duty, and shall further state, among others:

"(1) The domestic industry to which the petitioner belongs and the particular domestic product, commodity or article or class of domestic product, commodity or article being prejudiced;

"(2) The number of persons employed, the total capital invested, the production and sales volume, and the aggregate production capacity of the domestic industry that has been materially injured or is threatened to be materially injured or whose growth or establishment has been materially retarded or prevented;

"(3) The name and address of the known importer, exporter, or foreign producer, the country of origin or export, the estimated aggregate or cumulative quantity, the port and the date of arrival, the import entry declaration of the imported product, commodity or article, as well as the nature, the extent and the estimated amount of the subsidy thereon; and

"(4) Such other particulars, facts or allegations as are necessary to justify the imposition of countervailing duty on the imported product, commodity or article.

"A petition for the imposition of a countervailing duty shall be considered to have been made 'by or on behalf of the domestic industry' if it is supported by those domestic producers whose collective output constitutes more than fifty percent (50%) of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, an investigation shall be initiated only when domestic producers supporting the application account for at least twenty-five percent (25%) of the total production of the like product produced by the domestic industry. In cases involving an exceptionally large number of producers, degree of support or opposition may be determined by using statistically valid sampling techniques or by consulting their representative organizations.

"Within ten (10) days from his receipt of the petition or information, the Secretary shall review the accuracy and adequacy of the information or evidence provided in the petition to determine whether there is sufficient basis to justify the initiation of an investigation. If there is no sufficient basis to justify the initiation of an investigation, the Secretary shall dismiss the petition and shall properly notify the Secretary of Finance, the Commissioner of Customs and other parties concerned regarding such dismissal. The Secretary shall extend legal, technical and other assistance to the concerned domestic producers and their organizations at all stages of the countervailing action.

"(C) Notice to the Secretary of Finance. - Upon his receipt of the petition, the Secretary shall, without delay, furnish the Secretary of Finance with a summary of the essential facts of the petition, and request the latter to immediately inform the Commissioner of Customs regarding such petition and to instruct him to gather and secure all import entries covering such allegedly subsidized product, commodity or article without liquidation. The Commissioner of Customs shall submit to the Secretary a complete report on the number, volume, and value of the importation of the allegedly subsidized product, commodity or article within ten (10) days from his receipt of the instruction from the Secretary of Finance, and to make similar additional reports every ten (10) days thereafter.

"(D) Notice to and Answer of Interested Parties. - Within five (5) days from finding of the basis to initiate an investigation, the Secretary shall notify all interested parties, and shall furnish them with a copy of the petition and its annexes, if any. The interested parties shall, not later

than thirty (30) days from their receipt of the notice, submit their answer, including such relevant evidence or information as is reasonably available to them to controvert the allegations of the petition. If they fail to submit their answer, the Secretary shall make such preliminary determination of the case on the basis of the facts and/or information available.

"The Secretary shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the petition. However, after receipt of a properly documented petition and before proceeding to initiate an investigation, he shall notify the government of the exporting country about the impending investigation.

"(E) Preliminary Determination. - Within twenty (20) days from his receipt of the answer of the interested parties, the Secretary shall, on the basis of the petition of the aggrieved party and the answer of such interested parties and their respective supporting documents or information, make a preliminary determination on whether or not a prima facie case exists for the imposition of a provisional countervailing duty in the form of a cash bond equal to the provisionally estimated amount of subsidy. Upon finding of a prima facie case, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs to collect the cash bond, in addition to the corresponding ordinary duties, taxes and other charges imposed by law on such product, commodity or article. The posting of a cash bond shall be required not earlier than sixty (60) days from the date of initiation of the investigation. The cash bond shall be deposited with a government depository bank and shall be held in trust for the respondent importer. The application of the cash bond shall not exceed four (4) months.

"The Secretary shall immediately transmit his preliminary findings together with the records of the case to the Commission for its formal investigation. "(F) Termination of Investigation by the Secretary or the Commission. - The Secretary or the Commission, as the case may be, shall motu proprio terminate the investigation at any stage of the proceedings if the amount of subsidy is de minimis as defined in existing international trade agreements of which the Republic of the Philippines is a party; or where the volume of the subsidized imported product, commodity or article, actual or potential, or the injury is negligible. "(G) Formal Investigation by the Commission. - Immediately upon its receipt of the records of the case from the Secretary, the Commission shall commence the formal investigation and shall accordingly notify in writing all interested parties and, in addition, give public notice of such investigation in two (2) newspapers of general circulation.

"In the formal investigation, the Commission shall essentially determine:

"(1) The nature and amount of the specific subsidy being enjoyed by the imported product, commodity or article in question;

"(2) The presence and extent of the material injury or the threat thereof to, or the material retardation of the growth, or the prevention of the establishment of, the affected domestic industry; and

"(3) The existence of a causal relationship between the allegedly subsidized imported product, commodity or article and the material injury or threat thereof to, or the material retardation of the growth, or the prevention of the establishment of, the affected domestic industry.

"The Commission is hereby authorized to require any interested party to allow it access to, or otherwise provide, necessary information to enable the Commission to expedite the investigation. In case any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period of time or significantly impedes the investigation, a final determination shall be made on the basis of the facts available.

"The formal investigation shall be conducted in a summary manner. No dilatory tactics nor unnecessary or unjustified delays shall be allowed, and the technical rules or evidence shall not be applied strictly.

"(H) Determination of the Existence of Subsidy. - A subsidy is deemed to exist:

"(1) When the government or any public body in the country of origin or export of the imported product, commodity or article extends financial contribution to the producer, manufacturer or exporter of such product, commodity or article in the form of:

"(a) Direct transfer of funds such as grants, loans or equity infusion; or

"(b) Potential direct transfer of funds or assumption of liabilities such as loan guarantees; or

"(c) Foregone or uncollected government revenue that is otherwise due from the producer, manufacturer or exporter of the product, commodity or article: Provided, That the exemption of any exported product, commodity or article from duty or tax imposed on like product, commodity or article when destined for consumption in the country of origin and/or export or the refunding of such duty or tax, shall not be deemed to constitute a grant of a subsidy: Provided, further, That should a product, commodity or article be allowed drawback by the country of origin or export, only the ascertained or estimated amount by which the total amount of duties and/or internal revenue taxes was discounted or reduced, if any, shall constitute a subsidy; or

"(d) Provision of goods or services other than general infrastructure; or

"(e) Purchases of goods from the producer, manufacturer or exporter;

"(f) Payments to a funding mechanism; or

"(g) Other financial contributions to a private body to carry out one or more of the activities mentioned in subparagraphs (a) to (f) above; or

"(2) When there is a benefit conferred.

"(1) Determination of Specific Subsidy. - In the determination of whether or not a subsidy is specific, the following principles shall apply:

"(1) Where the government or any public body in the country of origin or export of the imported product, commodity or article explicitly limits access to a subsidy to certain enterprises, such subsidy shall be specific;

"(2) Where such government or public body through a law or regulation establishes objective criteria and conditions governing the eligibility for, and the amount of, a subsidy, specificity shall not exist: Provided, That the eligibility is automatic and that such criteria or conditions are strictly adhered to. Objective criteria shall mean those which are neutral, do not favor certain enterprises over others, and are economic in nature and horizontal in application, such as number of employees or size of enterprise;

"(3) In case a subsidy appears to be non-specific according to subparagraphs (1) and (2) above, but there are reasons to believe that the subsidy may in fact be specific, factors that may be considered are: use of a subsidy program by a limited number of certain enterprises for a relatively longer period; granting of disproportionately large amounts of subsidy to certain enterprises; and exercise of wide and unwarranted discretion for granting a subsidy; and

"(4) A subsidy which is limited to certain enterprises located within a designated geographical region within the territory of the government or public body in the country of origin or export shall be specific.

"(J) Determination of Injury. - The presence and extent of material injury or threat thereof to a domestic industry, or the material retardation of the growth, or the prevention of the establishment of a nascent enterprise because of the subsidized imports, shall be determined by the Secretary or the Commission, as the case may be, on the basis of positive evidence and shall require an objective examination of:

"(1) The volume of the subsidized imports, that is, whether there has been a significant increase either absolute or relative to production or consumption in the domestic market;

" (2) The effect of the subsidized imports on prices in the domestic market for the like product, commodity or article, that is, whether there has been a significant price undercutting, or whether the effect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred to a significant degree;

"(3) The effect of the subsidized imports on the domestic producers of the like product, commodity or article, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry concerned, such as, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual or potential negative effects on the cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on the support programs of the national government; and

"(4) Factors other than the subsidized imports which at the same time are injuring the domestic industry, such as: volumes and prices of non-subsidized imports of the product, commodity or article in question; contraction in demand or changes in the patterns of consumption; trade restrictive practices of and competition between the foreign and domestic producers; developments in technology and the export performance and productivity of the domestic industry.

"In determining threat of material injury, the Secretary or the Commission, as the case may be, shall decide on the basis of facts and not merely allegation, conjecture or remote possibility. The

change in circumstances which would create a situation in which the subsidized imports would cause injury should be clearly foreseen and imminent considering such relevant factors as:

"(1) Nature of the subsidy in question and the trade effects likely to arise therefrom;

"(2) Significant rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importations;

"(3) Sufficient freely disposable, or an imminent substantial increase in, capacity of the exporter of such subsidized imported product, commodity or article indicating the likelihood of substantially increased subsidized imports to the domestic market, taking into account the availability of other markets to absorb the additional exports;

"(4) Whether these subsidized imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and will likely increase demand for further imports; and

"(5) Inventories of the product, commodity or article being investigated.

"In the case where the effect of the subsidized import will materially retard the growth or prevent the establishment of a domestic industry, information on employment, capital investments, production and sales, and production capacity of said domestic industry can be augmented or substituted by showing through a factual study, report or other data that an industry which has potential to grow domestically is adversely affected by the subsidized import. For this purpose, the Department of Trade and Industry for non -agricultural products, and the Department of Agriculture for agricultural products, shall conduct continuing studies to identify and determine the specific industries, whether locally existing or not, which have the potential to grow or to be established domestically and whose growth or establishment will be retarded or prevented by a subsidized import.

"(K) Cumulation of Imports. - When imports of products, commodities or articles from more than one (1) country are simultaneously the subject of an investigation for the imposition of a countervailing duty, the Secretary or the Commission, as the case may be, may cumulatively assess the effects of such imports only if:

"(1) The amount of subsidization established in relation to the imports from each country is more than de minimis as defined in existing international trade agreements of which the Republic of the Philippines is a party; and

" (2) The volume of such imports from each country is not negligible; and

"(3) A cumulative assessment of the effects of such imports is warranted in the light of the conditions of competition between the imported products, commodities or articles, and the conditions of competition between the imported products, commodities or articles and the like domestic products, commodities or articles.

"(L) Public Notices and Consultation Proceedings. - The Secretary or the Commission, as the case may be, shall make public notices and conduct consultation with the government of the exporting country when:

"(1) Initiating an investigation;

"(2) Concluding or suspending an investigation;

"(3) Making a preliminary or final determination;

"(4) Making a decision to accept an undertaking or the termination of an undertaking; and

"(5) Terminating a definitive countervailing duty.

"(M) Voluntary Undertaking. - When there is an offer from any exporter of subsidized imports to revise its price, or where the government of the exporting country agrees to eliminate or limit the subsidy or take other measures to that effect, the Commission shall determine if the offer is acceptable and make the necessary recommendation to the Secretary. If the undertaking is accepted, the Secretary may advise the Commission to terminate, suspend or continue the investigation. The Secretary may also advise the Commission to continue its investigation upon the request of the government of the exporting country. The voluntary undertaking shall lapse if there is a negative finding of the presence of a subsidy or material injury. In the event of a positive finding of subsidization and material injury, the undertaking will continue, consistent with its terms and the provisions of this section.

"(N) Final Determination and Submission of Report by the Commission. - The Commission shall complete the formal investigation and submit a report of its findings to the Secretary within one hundred twenty (120) days from receipt of the records of the case: Provided, however, That it shall, before a final determination is made, inform all the interested parties of the essential facts under consideration which form the basis for the decision to impose a countervailing duty. Such disclosure should take place in sufficient time for the parties to defend their interests.

"(O) Imposition of Countervailing Duty. - The Secretary shall, within ten (10) days from his receipt of an affirmative final determination by the Commission, issue a department order imposing the countervailing duty on the subsidized imported product, commodity or article. He shall furnish the Secretary of Finance with the copy of the order and request the latter to direct the Commissioner of Customs to cause the countervailing duty to be levied, collected and paid, in addition to any other duties, taxes and charges imposed by law on such product, commodity or article.

"In case of an affirmative final determination by the Commission, the cash bond shall be applied to the countervailing duty assessed. If the cash bond is in excess of the countervailing duty assessed, the remainder shall be returned to the importer immediately: Provided, That no interest shall be payable by the government on the amount to be returned. If the cash bond is less than the countervailing duty assessed, the difference shall not be collected.

"If the order of the Secretary is unfavorable to the petitioner, the Secretary shall, after the lapse of the period for appeal to the Court of Tax Appeals, issue through the Secretary of Finance a department order for the immediate release of the cash bond to the importer.

"(P) Duration and Review of Countervailing Duty. – As a general rule, any imposition of countervailing duty shall remain in force only as long as and to the extent necessary to counteract a subsidization which is causing or threatening to cause material injury. However, the need for the continued imposition of the countervailing duty may be reviewed by the Commission when warranted, *motu proprio* or upon direction of the Secretary.

"Any interested party may also petition the Secretary for a review of the continued imposition of the countervailing duty: Provided, That at least six (6) months have elapsed since the imposition of the countervailing duty, and upon submission of positive information substantiating the need for a review. Interested parties may request the Secretary to examine: (1) whether the continued imposition of the countervailing duty is necessary to offset the subsidization; and/or (2) whether the injury will likely continue or recur if the countervailing duty is removed or modified.

"If the Commission determines that the countervailing duty is no longer necessary or warranted, the Secretary shall, upon its recommendation, immediately issue a department order terminating the imposition of the countervailing duty and shall notify all parties concerned, including the Commissioner of Customs through the Secretary of Finance, of such termination.

"Notwithstanding the provisions of the preceding paragraphs of this subsection, any countervailing duty shall be terminated on a date not later than five (5) years from the date of its imposition (or from the date of the most recent review if that review has covered both subsidization and material injury), unless the Commission has determined, in a review initiated at least six (6) months prior to the termination date upon the direction of the Secretary or upon a duly substantiated request by or on behalf of the domestic industry, that the termination of the countervailing duty will likely lead to the continuation or recurrence of the subsidization and material injury.

"The procedure and evidence governing the disposition of the petition for the imposition of countervailing duty shall equally apply to any review carried out under this subsection. Such review shall be carried out expeditiously and shall be concluded not later than ninety (90) days from the date of the initiation of such a review.

"(Q) Judicial Review. - Any interested party who is adversely affected by the department order of the Secretary on the imposition of the countervailing duty may file with the Court of Tax Appeals a petition for review of such order within thirty (30) days from his receipt of notice thereof: Provided, however, That the filing of such petition for review shall not in any way stop, suspend or otherwise toll the imposition and collection of the countervailing duty on the imported product, commodity or article.

"The petition for review shall comply with the same requirements, follow the same rules of procedure, and be subject to the same disposition as in appeals in connection with adverse rulings on tax matters to the Court of Tax Appeals.

"(R) Definition of Terms. - For purposes of this subsection, the term:

"(1) ' Domestic industry' shall refer to the domestic producers as a whole of the like product, commodity or article or to those of them whose collective output of the product, commodity or article constitutes a major proportion of the total domestic production of those products, except that when producers are related to the exporters or importers or are themselves importers of the allegedly subsidized product or a like product from other countries, the term 'domestic industry' may be interpreted as referring to the rest of the producers. In case the market in the Philippines is divided into two or more competitive markets, the term 'domestic industry' shall refer to the producers within each market although their production does not constitute a significant portion of the total domestic industry: Provided, That there is a concentration of subsidized imports into such a separate market: and Provided, further, That the subsidized imports are causing injury to the producers of all or almost all of the production within such market.

"(2) 'Interested parties' shall include: "(a) An exporter or foreign producer or the importer of a product subject to investigation, or the government of the exporting country or a trade or business association a majority of the members of which are producers, exporters or importers of such product;

"(b) A producer of the like product in the Philippines or a trade and business association a majority of the members of which produce the like product in the Philippines; and

"(c) Labor unions that are representative of the industry or coalitions of producers and/or labor unions.

"(3) 'Like product' shall mean a product, commodity or article which is identical, i.e., alike in all respects to the product, commodity or article or in the absence of such product, commodity or article, another product, commodity or article which, although not alike in all respects, has characteristics closely resembling those of the imported product, commodity or article under consideration.

"(S) An inter -agency committee composed of the Secretaries of Trade and Industry, Agriculture, and Finance, the Chairman of the Tariff Commission, and the Commissioner of Customs shall promulgate all rules and regulations necessary for the effective implementation of this section." (As amended by Republic Act No. 8751 dated 07 August 1999)

SECTION 303. Marking of Imported Articles and Containers.

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 department head, 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, labelling or by any other reasonable method, and a conspicuous place on the article or container where the marking shall appear.

2. Require the addition of any 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:

a. Such article is incapable of being marked;

b. Such article cannot be marked prior to shipment to the Philippines without injury;

c. Such article cannot be marked prior to shipment to the Philippines, except at an expense economically prohibitive of its importation;

d. The marking of a container of such article will reasonably indicate the origin of such article;

e. Such article is a crude substance;

f. Such article is imported for use by the importer and not intended for sale in its imported or any other form;

g. 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;

h. 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;

i. Such article was produced more than twenty years prior to its importation into the Philippines; or

j. 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 5 per cent 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 and/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 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 Code relative to abandonment of imported articles.

SECTION 304. 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 (100) per cent 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 he deems it consistent with the interests of the Philippines, to issue a further proclamation directing that such product of said country or such article imported in its vessels as he shall deem consistent with the public interests, shall 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 such proclamation as the President may issue in accordance with the provisions of this section.

PART 3. - FLEXIBLE TARIFF

SECTION 401. 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 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 (100) per cent 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 (10) per cent 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 One Hundred and Four of this Code, 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 (10) per cent 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 bases.

d. The Commissioner of Customs shall regularly furnish the Commission a copy of all customs import entries as filed In t he B ureau o f Customs. 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 (10) per cent ad valorem which shall take effect at the discretion of the President.

SECTION 402. 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 401 shall be observed: Provided, further, That any modification of import duties and any fixing of import quotas made pursuant to the agreement on ASEAN Preferential Trading Arrangements ratified on August 1, 1977 shall not be subject to the limitations of aforesaid section "a " of Section 401.

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 in his opinion 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, Department of Natural Resources, Department of Trade and Industry, Department of Tourism, the Central Bank of the Philippines, the Department of Foreign Affairs, 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

(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 procedure, rules and regulations as they may deem necessary to execute their respective functions under this section.

PART 4. - TARIFF COMMISSION

SECTION 501. Chief Officials of the Tariff Commission.

The Officials of the Tariff Commission shall be the Chairman and two (2) Member Commissioners to be appointed by the President of the Philippines.

SECTION 502. Qualifications.

No person shall be eligible for appointment as Chairman 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.

SECTION 503. Appointment and Compensation of Officials and Employees.

All employees of the Commission shall be appointed by the Chairman in accordance with the Civil Service Law except the private secretaries to the Chairman, Commissioners and Executive Director.

The Tariff Commission shall be reorganized in accordance with the requirements of its reorganized functions and responsibilities. The Chairman of the Commission, subject to the approval of the Director -General of the National Economic and Development Authority, shall determine the new positions -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.

SECTION 504. Official Seal.

The Commission is authorized to adopt an official seal.

SECTION 505. Functions of the Commission.

The Commission shall investigate -

- (a) the administration of, and the fiscal and industrial effects of, the tariff and customs 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
- (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 NEDA, Board of Investments, Central Bank of the Philippines, and Secretary of Finance.

SECTION 506. 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 manufacturers 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, Central Bank of the Philippines, Department of Finance and the Board of Investments.

SECTION 507. Reports of the Commission.

The Commission shall place at the disposal of the President and any member of the Congress of the Philippines or its member thereof all information at its command; shall make such investigation and report as may be required by the President and the Congress of the Philippines and shall report to the President and Congress on the first Monday of December of each year 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.

SECTION 509. Sworn 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.

SECTION 510. Verified Statements.

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

SECTION 511. 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 Code.

SECTION 512. Appropriation.

In addition to its current appropriation the amount of Six Hundred Thousand Pesos is hereby appropriated to carry out the purpose of sections five hundred one and five hundred three of this Code.

TITLE III. EXPORT TARIFF AND PREMIUM DUTY

SECTION 514. Export Products Subject to Duty and Rates.

There shall be levied, assessed and collected an export duty on the gross F.O.B. value at the time of shipment based on the prevailing rate of exchange, of the following products in accordance with the schedule specified in the column Export Duty.

In addition to the export duties, herein referred to as basic rate, there shall be levied, assessed and collected a premium duty on the difference between the current price as established by the Bureau of Customs and the base price of the products in accordance with the schedule specified under the column Premium Duty; Provided, That should the current price or any export product be below the established base price, then only the basic rate shall be applied: Provided, further, That, initially, the base price upon which the premium duty shall be levied eighty per centum (80%) of the F.O.B. value of exports established by the Bureau of Customs for February 1974. The National Economic and Development Authority shall, from time to time, review and establish such base prices taking into account, among others, the cost conditions in various industries.

EXPORT PRODUCTS	EXPORT DUTY 1/
-----------------	----------------

Wood Products

- | | |
|------------|-----|
| 1. Logs | 20% |
| 2. Lumber | |
| 3. Veneer | |
| 4. Plywood | |

Mineral Products

1. Metallic ores and concentrates
 - a) Copper
 - b) Iron
 - c) Chromite
2. Gold

EXPORT PRODUCTS	EXPORT DUTY 2/
-----------------	----------------

3. Non -Metallic
 - a) Clinker, cement
 - b) Portland cement
4. Mineral fuel
 - a) Bunker fuel oil
 - b) Petroleum pitch
5. Silver

Plant and Vegetable Products

1. Abaca (stripped hemp, unmanufactured)

2. Banana
 3. Coconut
 - a) Copra
 - b) Coconut oil
 - c) Copra meal/cake
 - d) Desiccated coconut
 4. Pineapple
 - a) Pineapple sliced or crushed
 - b) Pineapple juice or juice concentrate
 5. Sugar and Sugar Products
 - a) Centrifugal sugar
 - b) Molasses
 6. Tobacco a) Tobacco leaf b) Scrap tobacco
- Animal Products
1. Shrimps and Prawns

For purposes of computing the duty, the cost of packaging and crating materials shall be deductible from the export value, provided such materials are domestically manufactured using a substantial portion of local raw materials, as determined by the Board of Investments.

SECTION 515. Flexible Clause.

The President, upon recommendation of the National Economic and Development Authority, may subject any of the above products to higher or lower rates of duty provided in this Title, include additional products, exclude or exempt any product from this Title, or additionally subject any product to an export quota. In the exercise of this authority the President shall take into account: (1) the policy of encouraging domestic processing; (2) the prevailing prices of export products in the world market; (3) the advantages obtained by export products from international agreements to which the Philippines is a signatory; (4) the preferential treatment granted to our export products by foreign governments; and (5) the need to meet domestic consumption requirements.

SECTION 516. Assessment and Collection of the Duty.

The duty shall be assessed by the Bureau of Customs and collected by the Bureau thru authorized agent banks of the Central Bank not later than 30 days from the date of shipment.

SECTION 517. Deficiency and Surcharges.

In case the duty is not fully paid at the time specified hereof, the deficiency shall be increased by an amount equivalent to twenty-five per centum (25%) thereof, the total to be collected in the same manner as the duty. Where the deficiency is the result of false or fraudulent statements or representations attributable to the exporter, the surcharge shall be fifty per centum (50%).

SECTION 518. Allotment and Disposition of the Proceeds

The proceeds of this duty shall accrue to the General Fund and shall be allotted for development projects; except that one per centum (1%) annually shall be set aside for the Export Assistance Fund to be administered by the Board of Investments and expended in

accordance with the General Appropriation Act to finance export promotion projects; however, thirty per cent of this 1% shall accrue to the Bureau of Customs which shall constitute as its intelligence fund to be disbursed by the Commissioner of Customs in the implementation of this Title, such as but not limited to the purchase of equipment, hiring of personnel if necessary and for such other operational expenses in the promotion of the export industry.

SECTION 519 Rules and Regulations.

The Commissioner of Customs shall promulgate the rules and regulations necessary for the implementation of this Title, subject to the approval of the Secretary of Finance.

1/ Export duties on all export products except logs abolished under Executive Order No. 26 dated July 1, 1986

2/ Export duties on all products except logs abolished under Executive Order No. 26 dated July 1, 1986