



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

12 May 2014

**MEMORANDUM TO:**

**All District Collectors/Port Collectors**


**SUBJECT :** Republic Act No.8800, an "Act Protecting Local Industries by Providing Safeguard Measures to be undertaken in Response to Increased Imports and Providing Penalties for Violation Thereof".

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Attached is a copy of the letter dated 14 April 2014 of Ms. Rubina O. Cresencio, DVM, Acting Director IV, Bureau of Animal Industry (BAI), Department of Agriculture (DA), informing this bureau that during the March 2014 meeting of the National Task Force on Meat Price and Volume Watch (NTFPVW), the BAI-NVQS 2013 records show that the importers of poultry rind, skin, fats and offal did not apply for minimum access volume (MAV) and also did not pay special safeguard (SSG) duties.

Please confirm the dissemination of this memorandum to the proper office/s of your ports within five (5) days from receipt hereof.

For your information and guidance.

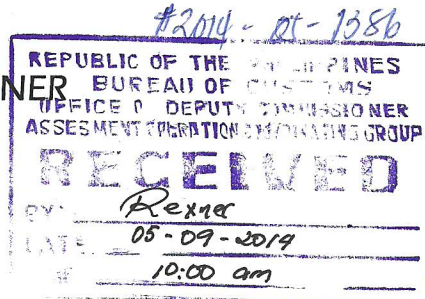
  
Atty. AGATON TEODORO O. UVERO  
Deputy Commissioner  
Assessment & Operations Coordinating Group



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

OFFICE OF THE COMMISSIONER

1<sup>st</sup> Indorsement  
6 May 2014



Respectfully forwarded to the Deputy Commissioner, Assessment and Operations Coordinating Group (Attention: The Director, Imports and Assessment Service), for information and appropriate action, the herein letter with attachment dated 14 April 2014 from Rubina O. Cresencio, Acting Director IV, Bureau of Animal Industry, Department of Agriculture, inviting attention to the statement that during the March 2014 meeting of the National Task Force on Meat Price and Volume Watch (NTFPVW), the BAI-NVOS 2013 records show that the importers of poultry rind, skin, fats and offal did not apply for minimum access volume (MAV) and also did not pay special safeguard (SSG) duties.

14-05116

  
JOHN P. SEVILLA  
Commissioner



MAY 08 2014



Republic of the Philippines  
Department of Agriculture  
**BUREAU OF ANIMAL INDUSTRY**  
Visayas Avenue, Diliman, Quezon City



April 14, 2014

**MR. JOHN PHILLIP SEVILLA**  
*Commissioner*  
Bureau of Customs  
G/F, OCOM Bldg., Port Area, Manila  
Tel. Nos.: (632) 917 3201

Dear Commissioner Sevilla,

Greetings from the Bureau of Animal Industry!

The National Task Force on Meat Price and Volume Watch (NTFPVW) is an inter-organization of government, agribusiness and industry associations in the livestock and poultry sector, which closely monitors the prices and supply of livestock and poultry, meat and meat products and allied industries in the Philippines.

During the March 2014 meeting, it was mentioned that the BAI-NVQS 2013 records show that the importers of poultry rind, skin, fats and offal did not apply for minimum access volume (MAV) and also did not pay special safeguard (SSG) duties. Please be reminded that if importation is outside MAV, special safeguard measure must be imposed. Attached is the copy of the Republic Act No. 8800, an "Act Protecting Local Industries by Providing Safeguard Measures to be Undertaken in Response to Increased Imports and Providing Penalties for Violation Thereof", for your reference.

Thank you, and we look forward to a continuous cooperation on matters of mutual concern.

Respectfully yours,

  
**RUBINA O. CRESENCIO, DVM**  
*Acting Director IV*

Cc: **Director Arnold Gambayan**  
Import Assessment Service







# REPUBLIC OF THE PHILIPPINES

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# TARIFF COMMISSION

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S.No. 2033  
H. No. 7613

Republic of the Philippines  
Congress of the Philippines  
Metro Manila

Eleventh Congress  
Third Special Session

Begun and held in Metro Manila, on Monday, the seventeenth day of July, two thousand.

[REPUBLIC ACT NO. 8800]

AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING **SAFEGUARD** MEASURES TO BE UNDERTAKEN IN RESPONSE TO INCREASED IMPORTS AND PROVIDING PENALTIES FOR VIOLATION THEREOF

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Safeguard Measures Act".

SEC. 2. *Declaration of Policy.* - The State shall promote the competitiveness of domestic industries and producers based on sound industrial and agricultural development policies, and the efficient use of human, natural and technical resources. In pursuit of this goal and in the public interest, the State shall provide safeguard measures to protect domestic industries and producers from increased imports which cause or threaten to cause serious injury to those domestic industries and producers.

SEC. 3. *Scope of Application.* - This Act shall apply to products being imported into the country irrespective of source.

SEC. 4. *Definitions.* - For the purposes of this Act, the following terms are defined as follows:

(a) "Agricultural product" refers to a specific commodity under Chapters 1 to 24 of the Harmonized System (HS) of Commodity Classification as used in the Tariff and Customs Code of the Philippines;

(b) "Commission" shall refer to the Tariff Commission;

(c) "Consumers" shall refer to natural persons or organized consumer groups who are purchasers, lessees, recipients, or prospective purchasers, lessees, recipients of consumer products, services or credit;

(d) "Critical circumstances" shall mean circumstances where there is *prima facie* evidence that increased imports, whether absolute or relative to domestic production, are a substantial cause of serious injury or threat thereof to the domestic industry and that delay in taking action under this Act would cause damage to the industry that would be difficult to repair;

(e) "Directly competitive products" shall mean domestically-produced substitutable products;

(f) "Domestic industry" shall refer to the domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products;

(g) "Interested parties" shall include domestic producers, consumers, importers and exporters of the products under consideration;

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

(i) "Market access opportunity" shall mean the percentage of the total annual volume of imports of an agricultural product to the corresponding total volume of domestic consumption of the said product in the country in the three (3) immediately preceding years for which data are available;

(j) "Minimum Access Volume (MAV)" is the amount of imports of an agricultural product allowed to be imported into the country at a customs duty lower than the out-quota customs duty;

(k) "Positive adjustment to import competition" shall refer to the ability of the domestic industry to compete successfully with imports after the termination of any safeguard measure, or to the orderly transfer of resources to other productive pursuits; and to the orderly transition of dislocated workers in the industry to other productive pursuits;

(l) "Price difference" is the amount obtained after subtracting the c.i.f. import price from the trigger price;

(m) "Product" refers to articles, commodities or goods;

(n) "Secretary" shall refer to either the Secretary of the Department of Trade and Industry in the case of non-agricultural products or the Secretary of the Department of Agriculture in the case of agricultural products;

(o) "Serious injury" shall mean a significant impairment in the position of a domestic industry after evaluation by competent authorities of all relevant factors of an objective and quantifiable nature having a bearing on the situation of the industry concerned, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in levels of sales, production, productivity, capacity utilization, profit and losses, and employment;

(p) "Substantial cause" means a cause which is important but not less than any other cause;

(q) "Threat of serious injury" shall be understood to mean serious injury that is imminent;

(r) "Trigger price" is the price benchmark for applying the special safeguard measure; and

(s) "Trigger volume" is the volume benchmark for applying the special safeguard measure.

## CHAPTER II GENERAL SAFEGUARD MEASURE

SEC. 5. *Conditions for the Application of General Safeguard Measures.* - The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest.

SEC. 6. *Initiation of Action Involving General Safeguard Measure.* - Any person, whether natural or juridical, belonging to or representing a domestic industry may file with the Secretary a verified petition requesting that action be taken to remedy the serious injury or prevent the threat thereof to the domestic industry caused by increased imports of the product under consideration.

The petition shall include documentary evidence supporting the facts that are essential to establish:

- (1) an increase in imports of like or directly competitive products;
- (2) the existence of serious injury or threat thereof to the domestic industry; and
- (3) the causal link between the increased imports of the product under consideration and the serious injury or threat thereof.

The Secretary shall review the accuracy and adequacy of the evidence adduced in the petition to determine the existence of a *prima facie* case that will justify the initiation of a preliminary investigation within five (5) days from receipt of the petition.

The Secretary may also initiate action upon the request of the President; or a resolution of the House or Senate Committee on Agriculture, or House or Senate Committee on Trade and Commerce.

In the absence of such a petition, the Secretary may, *motu proprio*, initiate a preliminary safeguard investigation if there is evidence that increased imports of the product under consideration are a substantial cause of, or are threatening to substantially cause, serious injury to the domestic industry.

The Secretary may extend legal, technical and other assistance to the concerned domestic producers and their organizations at all stages of the safeguard action.

SEC. 7. *Preliminary Determination* - Not later than thirty (30) days from receipt of the petition or a *motu proprio* initiation of the preliminary safeguard investigation, the Secretary shall, on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry. In the process of conducting a preliminary determination, the Secretary shall notify the interested parties and shall require them to submit their answers within five (5) working days from receipt of such notice. The notice shall be deemed received five (5) working days from the date of transmittal to the respondent or appropriate diplomatic representative of the country of exportation or origin of the imported product under consideration.

When information is not applied within the above time limit set by the Secretary or if the investigation is significantly impeded, decision will be based on the facts derived from the evidence at hand.

Upon a positive preliminary determination that increased importation of the product under consideration is a substantial cause of, or threatens to substantially cause, serious injury to the domestic industry, the Secretary shall, without delay, transmit its records to the Commission for immediate formal investigation.

SEC. 8. *Provisional Measures.* - In critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measure.

Such measure shall take the form of a tariff increase, either *ad valorem* or specific, or both, to be paid through a cash bond set at a level sufficient to redress or prevent injury to the domestic industry: *Provided, however,* That in the case of



4/10/2014

RA 8800

agricultural products where the tariff increase may not be sufficient to redress or to prevent serious injury to the domestic producer or producers, a quantitative restriction may be set. The cash bond shall be deposited with a government depository bank and shall be held in trust for the importer who posted the bond. The duration of the provisional measure shall not exceed two hundred (200) days from the date of imposition during which period the requirements of the subsequent sections of this Act on the initiation of a formal investigation, notification and consultation shall have been met: *Provided*, That the duration of any provisional measure shall be counted as part of the initial period and any extension, of the imposition of the definitive final safeguard measure.

When the provisional safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

**SEC. 9. Formal Investigation.** Within five (5) working days from receipt of the request from the Secretary, the Commission shall publish the notice of the commencement of the investigation, and public hearings which shall afford interested parties and consumers an opportunity to be present, or to present evidence, to respond to the presentation of other parties and consumers and otherwise be heard. Evidence and positions with respect to the importation of the subject article shall be submitted to the Commission within fifteen (15) days after the initiation of the investigation by the Commission.

The Commission shall complete its investigation and submit its report to the Secretary within one hundred twenty (120) calendar days from receipt of the referral by the Secretary, except when the Secretary certifies that the same is urgent, in which case the Commission shall complete the investigation and submit the report to the Secretary within sixty (60) days.

**SEC. 10. Inspection of Evidence.** - The Commission shall make available for inspection by interested parties, copies of all evidence submitted on or before the relevant due date: *Provided, however*, That any information which is by nature confidential or which is provided on a confidential basis, shall, upon cause being shown, not be disclosed without permission of the party submitting it. Parties providing confidential information may be requested to furnish non-confidential summaries thereof or if such parties indicate that such information cannot be summarized, the reasons why a summary cannot be provided: *Provided, further*, That if the Commission finds that a request for confidentiality is not warranted and if that party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the Commission may disregard such information unless it can be demonstrated to its satisfaction from appropriate sources that the information is correct.

**SEC. 11. Adjustment Plan.** - In the course of its investigation, the Commission shall issue appropriate notice to representatives of the concerned domestic industry or other parties, to submit an adjustment plan to import competition, within forty-five (45) days upon receipt of the notice, except when the Secretary certifies that the same is urgent, in which case the adjustment plan must be submitted within thirty (30) days.

If the Commission makes an affirmative determination of injury or threat thereof, individual commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition shall be submitted to the Commission by any (a) firm in the domestic industry, (b) certified or recognized union or group of workers in the domestic industry, (c) local community, (d) trade association representing the domestic industry, or (e) other person or group of persons.

**SEC. 12. Determination of Serious Injury or Threat Thereof.** - In reaching a positive determination that the increase in the importation of the product under consideration is causing serious injury or threat thereof to a domestic industry producing like products or directly competitive products, all relevant factors having a bearing on the situation of the domestic industry shall be evaluated. These shall include, in particular, the rate and amount of the increase in imports of the products concerned in absolute and relative terms, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

Such positive determination shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between the increased imports of the product under consideration and serious injury or threat thereof to the domestic industry. When factors other than increased imports are causing injury, such injury shall not be attributed to increased imports.

**SEC. 13. Adoption of Definitive Measures.** - Upon its positive determination, the Commission shall recommend to the Secretary an appropriate definitive measure, in the form of:

- (a) An increase in, or imposition of, any duty on the imported product;
- (b) A decrease in or the imposition of a tariff-rate quota (MAV) on the product;
- (c) A modification or imposition of any quantitative restriction on the importation of the product into the Philippines;
- (d) One or more appropriate adjustment measures, including the provision of trade adjustment assistance;
- (e) Any combination of actions described in subparagraphs (a) to (d).

The Commission may also recommend other actions, including the initiation of international negotiations to address the underlying cause of the increase of imports of the product, to alleviate the injury or threat thereof to the domestic industry, and to facilitate positive adjustment to import competition.

The general safeguard measure shall be limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports: *Provided, however*, That when quantitative import restrictions are used, such measures shall not reduce the quantity of imports below the average imports for the three (3) preceding representative years, unless clear justification is given that a different level is necessary to prevent or remedy a serious injury.

A general safeguard measure shall not be applied to a product originating from a developing country if its share of total imports of the product is less than three percent (3%): *Provided, however*, That developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total imports.

The decision imposing a general safeguard measure, the duration of which is more than one (1) year, shall be reviewed at regular intervals for purposes of liberalizing or reducing its intensity. The industry benefiting from the application of a general safeguard measure shall be required to show positive adjustment within the allowable period. A general safeguard measure shall be terminated where the benefiting industry fails to show any improvement, as may be determined by the Secretary.

The Secretary shall issue a written instruction to the heads of the concerned government agencies to implement the appropriate general safeguard measure as determined by the Secretary within fifteen (15) days from receipt of the report.

In the event of a negative final determination, or if the cash bond is in excess of the definitive safeguard duty assessed, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs, authorizing the return of the cash bond or the remainder thereof, as the case may be, previously collected as provisional general safeguard measure within ten (10) days from the date a final decision has been made: *Provided*, That the government shall not be liable for any interest on the amount to be returned. The Secretary shall not accept for consideration another petition from the same industry, with respect to the same imports of the product under consideration within one (1) year after the date of rendering such a decision.

When the definitive safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

SEC. 14. *Contents of the Report by the Commission.* - Based on its findings, the Commission shall submit to the Secretary: (a) the investigation report; (b) the proposed recommendations; (c) a copy of the submitted adjustment plan; and (d) the commitments made by the domestic industry to facilitate positive adjustment to import competition.

The report shall also include a description of the short and long-term effects of the affirmative or negative recommendation, as the case may be, on the petitioner, the domestic industries, the consumers, the workers, and the communities where production facilities of such industry are located.

The Commission, after submitting the report to the Secretary, shall make it available to the public except confidential information obtained under Section 10 and publish a summary in two (2) newspapers of general circulation.

SEC. 15. *Limitations on Actions.* - The duration of the period of an action taken under the General Safeguard Provisions of this Act shall not exceed four (4) years. Such period shall include the period, if any, in which provisional safeguard relief under Section 8 was in effect.

The effective period of any safeguard measure, including any extensions thereof under Section 19 may not, in the aggregate, exceed ten (10) years.

(1) Any additional duty, or any duty imposed under this Section may be specific and/or *ad valorem*. It shall be in the amount necessary to prevent or redress or remedy the injury to the domestic industry;

(2) If a quantitative restriction is used, such measure shall not reduce the quantity of imports below the level of a recent period which shall be the average of imports in the last three (3) representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury;

(3) An action described in Section 13 (a), (b), or (c) that has an effective period of more than one (1) year shall be phased down at regular intervals within the period in which the action is in effect;

(4) Within two (2) years after the expiration of the action, the Secretary shall not accept any further petition for the same article: *Provided, however*, That a safeguard measure with a duration of one hundred eighty (180) days or less may be applied again to the same product if:

(i) At least one (1) year has elapsed since the date of introduction of the safeguard measure; and

(ii) Such measure has not been applied on the same product more than twice in the five (5) year period immediately preceding the date of introduction of the measure.

SEC. 16. *Monitoring.* - So long as any action taken under Section 13 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

(1) If the initial application of action taken under Section 13 exceeds three (3) years, or if an extension of such action exceeds three (3) years, the Commission shall submit to the Secretary a report on the results of the monitoring, not later than the date which is the midpoint of the initial period, and of each such extension, during which the action is in effect.

(2) The Commission, in the preparation of each monitoring report, shall conduct a hearing at which interested parties shall be given reasonable opportunity to be present, to present evidence, and to be heard.

SEC. 17. *Notice of General Safeguard Measure.* - The Secretary shall notify the concerned Committee on Safeguards of the World Trade Organization:

- (a) When initiating an action relating to serious injury or threat thereof and the reasons for it;
- (b) When adopting a provisional general safeguard measure following a positive preliminary determination; and
- (c) When applying or extending a definitive general safeguard measure following a positive final determination.

SEC. 18. *Reduction, Modification, and Termination of Action.* Action taken under Section 13 may be reduced, modified, or terminated by the Secretary only after:

(a) Taking into account the results of the monitoring indicated in the report submitted by the Commission under Section 16, he determines that:

- (i) No adequate efforts to make a positive adjustment to import competition have been undertaken by the domestic industry; and
- (ii) Changed economic circumstances have impaired the effectiveness of action taken under Section 13.

(b) A majority of the representatives of the domestic industry submits to the Secretary, at least one (1) year before the expiration, a petition requesting such reduction, modification, or termination on the basis that the domestic industry has made a positive adjustment to import competition.

If reduction, modification, or termination of action is being requested for an action that has been in effect for three (3) years or less, the petitioning industry shall submit its request to the Secretary. The Secretary shall refer the request to the Commission which shall conduct an investigation following the procedures under Section 9, to be completed within sixty (60) days from receipt of the request. The Commission shall submit a report to the Secretary who shall then take action



after taking into consideration conditions under Section 16 (1) and (2), not later than thirty (30) days after receipt of the Commission's report.

SEC. 19. *Extension and Re-application of Safeguard Measure* . -

(1) Subject to the review under Section 16, an extension of the measure may be requested by the petitioner if the action continues to be necessary to prevent or remedy the serious injury and there is evidence that the domestic industry is making positive adjustment to import competition.

(2) The petitioner may appeal to the Secretary at least ninety (90) days before the expiration of the measure for an extension of the period by stating concrete reasons for the need thereof and a description of the industry's adjustment performance and future plan. The Secretary shall immediately refer the request to the Commission. Following the procedures required under Section 9, the Commission shall then submit a report to the Secretary not later than sixty (60) days from its receipt of the request. Within seven (7) days from receipt of the report, the Secretary shall issue an order granting or denying the petition. In case an extension is granted, the same shall be more liberal than the initial application.

SEC. 20. *Evaluation of Effectiveness of Action*. - After termination of any action under Section 13, the Commission shall evaluate the effectiveness of the actions taken by the domestic industry in Facilitating positive adjustment to import competition.

The Commission shall hold a public hearing on the effectiveness of the action at which all interested parties shall be afforded opportunity to present evidence or testimony.

CHAPTER III

SPECIAL SAFEGUARD MEASURE  
FOR AGRICULTURAL PRODUCTS

SEC. 21. *Authority to Impose the Special Safeguard Measure*. - The Secretary of Agriculture shall issue a department order requesting the Commissioner of Customs, through the Secretary of Finance, to impose an additional special safeguard duty on an agricultural product, consistent with Philippine international treaty obligations, if:

- (a) Its cumulative import volume in a given year exceeds its trigger volume, subject to the conditions stated in this Act, in Section 23 below; or but not concurrently; and
- (b) Its actual c.i.f. import price is less than its trigger price subject to the conditions stated in this Act, in Section 24 below.

SEC. 22. *Initiation of Action Involving Special Safeguard Measure*. - Any person, whether natural or juridical, may request the Secretary to verify if a particular product can be imposed a special safeguard duty subject to the conditions set in Section 21 of this Act. The request shall include data which would show that the volume of imports of a particular product has exceeded its trigger volume or that the c.i.f. import price of a particular product has gone below its trigger price. The Secretary shall come up with a finding within five (5) working days from the receipt of a request.

The Secretary may, *motu proprio*, initiate the imposition of a special safeguard measure following the satisfaction of the conditions for imposing the measure set in this Chapter.

SEC. 23. *Determination of Special Duty Based on the Volume Test*. - The special safeguard duty allowed to be imposed on the basis of the volume test pursuant to Section 21 (a) of this Act shall be determined as follows:

(a) The trigger volume referred to in Section 21 (a) of this Act is the amount obtained, after adding the change in the annual domestic consumption of the agricultural product under consideration, for the two (2) preceding years for which data are available, to:

- (i) One hundred twenty-five percent (125%) of the average annual volume of imports of the agricultural product under consideration in the three (3) immediately preceding years for which data are available, hereinafter referred to as the average import volume, if the market access opportunity is at most ten percent (10%); or
- (ii) One hundred ten percent (110%) of the average annual import volume, if the market access opportunity exceeds ten percent (10%) but is not more than thirty percent (30%); or
- (iii) One hundred five percent (105%) of the average annual import volume, if the market access opportunity exceeds thirty percent (30%):

*Provided*, That if the change in the volume of domestic consumption mentioned above is not taken into account in computing the trigger volume, the trigger volume shall be equal to one hundred twenty-five percent (125%) of the average import volume for the immediate three (3) preceding years for which data are available, unless a clear justification is given that a different level is necessary to prevent or remedy serious injury: *Provided, further*, That the trigger volume shall at least be one hundred five percent (105%) of the average imports of the agricultural product under consideration.

(b) The special safeguard duty to be imposed subject to the conditions stated under the volume test shall be appropriately set to a level not exceeding one-third of the applicable out-quota customs duty on the agricultural product under consideration in the year when it is imposed: *Provided*, That this duty shall only be maintained until the end of the year in which it is imposed: *Provided, further*, That this duty may be reduced or terminated in special cases such as when a shortage of a particular agricultural product exists, as determined by the Secretary.

(c) *In transitu* volumes of imports of the agricultural product under consideration at the time the special safeguard duty is imposed shall be exempted from the additional duty. However, such volumes shall be counted in the computation of the cumulative volume of imports of the said agricultural product for the following year.

SEC. 24. *Determination of Special Safeguard Duty Based on the Price Test*. - The additional duty allowed to be imposed on the basis of the price test pursuant to Section 21 (b) of this Act shall be determined as follows:

(a) The trigger price referred to in Section 21 (b) of this Act is the average actual c.i.f. import price or relevant reference price of the agricultural product under consideration from 1986 to 1988, unless clear justification is given that a different reference price is necessary to prevent or remedy serious injury. The Secretary shall publish the list of trigger prices corresponding to each of the agricultural products covered by this Act, after the conduct of public hearings on the subject; and



(b) The special safeguard duty to be imposed subject to the conditions stated under Section 21(b) of this Act shall be computed as follows:

- (i) Zero, if the price difference is at most ten percent (10%) of the trigger price; or
- (ii) Thirty percent (30%) of the amount by which the price difference exceeds ten percent (10%) of the trigger price, if the said difference exceeds ten percent (10%) but is at most forty percent (40%) of the trigger price; or
- (iii) Fifty percent (50%) of the amount by which the price difference exceeds forty percent (40%) of the trigger price, plus the additional duty imposed under Section 24 (b)(ii), if the said difference exceeds forty percent (40%) but is at most sixty percent (60%) of the trigger price; or
- (iv) Seventy percent (70%) of the amount by which the price difference exceeds sixty percent (60%) of the trigger price, plus the additional duties imposed under Section 24 (b)(ii) and (b)(iii), if the said difference exceeds sixty percent (60%) and is at most seventy-five percent (75%) of the trigger price; or
- (v) Ninety percent (90%) of the amount by which the price difference exceeds seventy-five percent (75%) of the trigger price; plus the additional duties imposed under Section 24 (b)(ii), (b)(iii), and (b)(iv), if the said difference exceeds seventy-five percent (75%) of the trigger price.

As far as practicable, a special safeguard measure determined under the provisions of this Section shall not be resorted to when the volume of the imported agricultural product under consideration is declining.

SEC. 25. *Agricultural Products Subject to Minimum Access Volume Commitments.* - The special safeguard duty shall not apply to the volumes of the imported agricultural product under consideration that are brought into the country under the minimum access volume mechanism: *Provided, however,* That these volumes shall be included in computing the cumulative volume of imports of the said agricultural product pursuant to Section 21 (a) of this Act.

SEC. 26. *Perishable and Seasonal Agricultural Products.* Shorter time periods and different reference prices may be used in determining the applicable special safeguard measure taking into account the special characteristics of perishable and seasonal agricultural imports.

SEC. 27. *Notice of Special Safeguard Measure.* - The Secretary shall make the administration of the safeguard measure transparent by giving notice in writing to the WTO Committee on Agriculture, in advance to the extent practicable, but in any event within ten (10) days from the implementation of such measure: *Provided, however,* That for perishable and seasonal agricultural products, notification shall be made from the first action in any period.

The notice shall include relevant data or as may be deemed necessary, information and methods used in cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under Chapter III of this Act.

Where a special safeguard measure action is taken under the provisions of this Act, the Secretary shall consult with interested WTO members and provide all relevant information on the conditions of the application of such action.

SEC. 28. *Duration of Special Safeguard Measures.* - The special safeguard measures for agricultural products shall lapse with the duration of the reform process in agriculture as determined in the WTO. Thereafter, recourse to safeguard measures shall be subject to the provisions on general safeguard measures as provided in Chapter II of this Act.

#### CHAPTER IV SPECIAL PROVISIONS

SEC. 29. *Judicial Review.* - Any interested party who is adversely affected by the ruling of the Secretary in connection with the imposition of a safeguard measure may file with the Court of Tax Appeals, a petition for review of such ruling within thirty (30) days from receipt thereof: *Provided, however,* That the filing of such petition for review shall not in any way stop, suspend or otherwise toll the imposition or collection of the appropriate tariff duties or the adoption of other appropriate safeguard measures, as the case may be.

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

SEC. 30. *Penalty Clause.* - Any government official or employee who shall fail to initiate, investigate, and implement the necessary actions as provided in this Act and the rules and regulations to be issued pursuant hereto, shall be guilty of gross neglect of duty and shall suffer the penalty of dismissal from public service and absolute disqualification from holding public office.

SEC. 31. *Prohibition of Concurrent Recourse to Safeguard Measures.* - There shall be no recourse to the use of the general safeguard measure under Chapter II of this Act concurrently with the special safeguard measure as provided for under Chapter III of this Act and vice-versa.

SEC. 32. *Issuance of Implementing Rules and Regulations.* - Within sixty (60) days after the effectivity of this Act, the Department of Agriculture and the Department of Trade and Industry in consultation with the Department of Finance, the Bureau of Customs, the National Economic and Development Authority, and the Tariff Commission, after consultations with domestic industries and with the approval of the Congressional Oversight Committee which is hereby created under this Act, shall promulgate the necessary rules and regulations to implement this Act.

SEC. 33. *Oversight.* - There shall be a Congressional Oversight Committee composed of the Chairmen of the Committee on Trade and Industry, the Committee on Ways and Means, and the Committee on Agriculture of both the Senate and the House of Representatives to oversee the implementation of this Act.

SEC. 34. *Administrative System Support.* - Upon the effectivity of this Act, any sum as may be necessary for the Department of Agriculture, the Department of Trade and Industry, and the Tariff Commission to undertake their functions efficiently and effectively shall be included in the General Appropriations Act.

The aforementioned government agencies are hereby authorized to collect such fees, charges, and safeguard duties that are deemed necessary. Fifty percent (50%) of the revenue collected from such fees, charges, and safeguard duties shall be set aside in a Remedies Fund which shall be earmarked for the use of these agencies in the implementation of remedies, including the safeguard measures. The remaining fifty percent (50%) shall be deposited under a special account to be

4/10/2014

RA 8800

created in the National Treasury and shall be earmarked for competitiveness enhancement measures for the industries affected by the increased imports. The disposition thereof shall be determined through the General Appropriations Act.

SEC. 35. *Assistance to Farmers and Fisherfolk.* - To safeguard and enhance the interest of farmers and fisherfolk, nothing in this Act shall in any manner affect the provisions of Republic Act No. 8435, otherwise known as the Agriculture and Fisheries Modernization Act.

SEC. 36. *Conditions for Application of Safeguard Measures.* - In the application of any safeguard measure under this Act, the following conditions must be observed:


- (1) All actions must be transparent and shall not allow any anti-competitive, monopolistic or manipulative business devise; and
- (2) Pursuant to the non-impairment clause of the Constitution, nothing in this Act shall impair the obligation of existing supply contracts.

SEC. 37. *Separability Clause.* - If any provision of this Act is held invalid, the other provisions of this Act not affected shall remain in force and effect.

SEC. 38. *Repealing Clause.* - All laws, decrees, rules and regulations, executive or administrative orders and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

SEC. 39. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the *Official Gazette*, whichever comes earlier.

Approved,

  
 MANUEL B. VILLAR, JR.  
 Speaker of the House  
 of Representatives

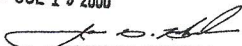
  
 FRANKLIN M. DRILON  
 President of the Senate

This Act, which is a consolidation of Senate Bill No. 2033 and House Bill No. 7613 was finally passed by the Senate and the House of Representatives on July 17, 2000 and July 18, 2000, respectively.

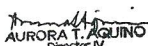
  
 ROBERTO NAZARENO  
 Secretary General  
 House of Representatives

  
 EMMALIO REYES  
 Acting Secretary of the Senate

Approved: JUL 19 2000

  
 JOSEPH E. ESTRADA  
 President of the Philippines



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