

REPUBLIC ACT No. 8800

AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING SAFE IN MEASURE TO BE UNDERTAKE IN RESPONSE TO INCREASED IMPORTS AND PROVIDING PENALTIES FOR VIOLATION THEREOF

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

CHAPTER I GENERAL PROVISIONS

Section 1. Short Title - this Act shall be known as the "Safeguard Measures Act."

Section 2. Declaration of Policy - The State shall promote the competitiveness of domestic industries and producer based on sound industrial and agricultural development policies, 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 caused or threaten to cause serous injury to those domestic industries and producers.

Section 3. Scope of Application – this Act shall apply to products being imported into the country irrespective of source.

Section 4. Definitions – For the purpose of this Act, the following terms are defined as follows:

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

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

(c) " Consumers " shall refer to natural person or organized consumer groups who are purchaser, lessees, recipient, 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, where there 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 producer, 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 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 it 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 characteristic: 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 (mV)"is the amount of imports of an agricultural product allowed to be imported into the country at a customs duty lower than 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 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" shall refer to either to article, commodities or goods

(n) " Secretary injury" 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 factor 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 products concerned in absolute and relative terms the share of the domestic market take by increased imports, change in level 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 volume " is the price benchmark for applying the special safeguard measure; and

(s) " Trigger price" is the volume benchmark for applying the special safe guard measure.

CHAPTER II GENERAL SAFEGUARD MEASURE

Section 5. Condition the Application of General Safeguard Measure.- The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product is being imported in to 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 on- agricultural products; the Secretary shall first establish that the application of such safeguard measure will be in the public interest.

Section 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 import 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 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 the threatening to substantially cause, serious injury to the domestic industry.

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

Section 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 answer 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.

Section 8. *Provisional Messages.*- In critical circumstances, which would be difficult to repair, and pursuant to a preliminary determination that increased import 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 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 agricultural products where the tariff increase may not be sufficient to redress or to prevent serious injury to the domestic producers or processors, a quantitative restriction may be set. The cash bond shall be deposited with a government depository bank and 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 section of this Act on the initiation of a formal investigation notification and consultation shall have been met provided, That the duration any provisional measure shall be counted as part of the initial period and any extension, 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 level of the tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

Section 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 hearing which shall afford interested parties and consumers and opportunity to be present or to present evidence, to respond to the presentation of other parties and consumers, and otherwise be heard. The Commission shall submit evidence and position with respect to the importation of the subject article to the Commission within fifteen (15) days after the initiation of the investigation.

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 then same is urgent, in which case the Commission shall complete the investigation and submit the report to the Secretary within sixty (60) days.

Section 10. Inspection of Evidence- The Commission shall make available for inspection by interested parties, copies of evidence submitted on or before the relevant due: 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.

Section 11. Adjustment plan.- In the course of its investigation, the Commission shall issue a 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 make an affirmative determination of injury or threat thereof individual comments 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 the group of person.

Section 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, in ports 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 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 other than increased imports are causing injury shall not be attributed to increased imports

Section 13. *Adoption of Definitive Measure.*- Upon its positive determination the Commission shall recommend to the Secretary an appropriate definitive measures, 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 measure, including into the provision of trade adjustment measure, including the provision of trade adjustment assistance;
- (e) Any combination of action described in subparagraph (a) to (d).

The Commission may also recommend other actions, including the initiation of international negotiation 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 restriction are used, such measure 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, The 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 (1) year, shall be reviewed at regular intervals for purpose of liberalizing or reducing its intensity the industry benefiting from the application of a general safeguard measure shall be required too show positive adjustment within the allowable be terminate where the benefiting industry fails to show any improvement, as may be determined be 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 terminated by the Secretary within fifteen (150days from receipt of the report.

In the event of a negative final determination, or if the cash bond 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 cash may be, previously collected provisional general safeguard measure within 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 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 be not subject to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

Section 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 submitted adjustment plan; and (d) the commitments made by the domestic industry 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 reports Secretary shall make it available to the public except confidential information obtained under Section 10 the publish a summary in two (2) newspapers of general circulation.

Section 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 effects.

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 the 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 of which the statistics are available, unless clear justification is given that a different levels 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.

Section 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.

Section 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.

Section 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 representative of the domestic industry submit 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 effect for three (3) year 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 producers 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.

Section 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 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 that 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 that the initial application.

Section 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

Section 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 addition 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 state 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 State in this Act, in Section 24 below.

Section 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 date 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.

Section 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 state 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 or the cumulative volume of imports of the said agricultural product for the following year

Section 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 a 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 price difference exceeds 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.

Section 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.

Section 26. Perishable and Seasonal Agriculture 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.

Section 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, and seasonal agricultural products, notification shall be made from 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 allowed 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 interest WTO members and provide all relevant information on the conditions of the application of such action.

Section 27. *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

Section 29. *Judicial Review.* - Any interest 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.

Section 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.

Section 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.

Section 32. *Issuance of Implementing Rules and Regulations.* – Within sixty (0) days after affectivity of this Act, the Determent 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.

Section 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.

Section 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 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 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.

Section 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 Republic Act No. 8435, otherwise known as the Agriculture and Fisheries Modernization Act.

Section 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 allow any anti-competitive, monopolistic or manipulative business device; and

(2) Pursuant to the non-impairment clause of the Constitution, nothing in this Act shall impair the obligation of existing supply contracts.

Section 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.

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

Section 39. *Effectively 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: July 19, 2000

(Sgd.) **JOSEPH E. ESTRADA**
President of the Philippines