

AMENDING SECTION 301 OF PRESIDENTIAL DECREE NO. 1464 OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF 1978 AS AMENDED.

PRESIDENTIAL DECREE NO. 1999, November 09, 1985

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WHEREAS, it is the government concern to provide domestic industries government measures against unfair trade practices ;

WHEREAS, the present provision on dumping under Section 301 of the Tariff and Customs Code needs further strengthening and modification to provide domestic industries adequate trade measures to face this eventuality.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as follows:

SECTION 1. The provisions of Subparagraph b(l) and (3) of Section 301 of the Tariff and Customs Code, as amended, are further amended to read as follows:

"b. The Commission, upon receipt of the advice from the Minister shall conduct an investigation to:

- Verify if the kind or class of article in question is being imported into, or sold or is likely to be sold in the Philippines at a price less than its fair value;

The fair value of an article shall be its home consumption price, excluding internal excise taxes.

If the fair value of an article cannot be determined, the following rules shall apply:

i. If the home consumption price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, or if the quantity of like or similar articles sold by the producers for home consumption is negligible in relation to the quantity sold for exportation to countries other than the Philippines as to be an inadequate basis for comparison, then the fair value of the articles shall be based from the export price of like articles sold to countries other than the Philippines, or

ii. If the country of export is a state-controlled economy, then the fair value of like articles shall be the home consumption price of like articles in a proxy country at the same stage of economic development which is a proven or established competitive producer of the article under consideration.

iii. In the case where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the fair value shall be the home consumption price in the country of origin or the country of export whichever is higher.

iv. If the fair value of such or like article cannot be determined in accordance with the preceding paragraphs then, the fair value of the article under consideration shall be its cost of production as determined or calculated from reasonably available data."

"3. Ascertain the difference, if any, between the purchase price and the fair value of the article. The Commission shall submit its findings to the Minister within sixty (60) days after the submission of the

Memoranda of the parties which will not be later than fifteen (15) days after the termination of the public hearing."

SEC. 2. The provisions of Subparagraphs "c" and "d" of the same section are hereby amended to read as follows:

"(c) The Minister shall, within sixty (60) days after receipt of the report of Commission, decide whether the article in question is being imported in violation of this section and shall give due notice of such decision and shall direct the Commissioner of Customs to cause the dumping duty, to be levied, collected and paid, as prescribed in this section, in addition to any other duties, taxes and charges imposed by law on such article, and on the articles of the same specific kind or class subsequently imported under similar circumstances coming from the specific country."

"(d) The "Dumping Duty" as provided for in sub-section "c" hereof shall be equal to the difference between the actual purchase price and the fair value of the article as determined in the dumping decision. All importations of like articles within sixty (60) days immediately preceding the filing of the protest are covered by the investigation. However, in cases of subsequent importations of same kind or class of article from the specific country named in the protest, the dumping duty shall be equal to the difference between the actual purchase price and the fair value actually existing at the time of importation as determined by the Tariff Commission from the supporting documents submitted or from other reliable sources."

SEC. 3. The first sentence of subparagraph "i" of the same Section shall be amended to read as follows:

"i. The established dumping duty shall be subject to adjustment based on the prevailing home consumption price or the exporter's sales price to third country or the home consumption price of a proxy country or in the absence thereof, the cost of production."

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SEC. 4. The Minister and the Commission shall promulgate all rules and regulations necessary to carry out their respective functions under this section.

SEC. 5. This Decree shall take effect immediately.

DONE in the City of Manila, this 9th day of November 1985, in the year of Our Lord, nineteen hundred and eighty-five.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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