

AN ACT TO AMEND ACT NUMBERED FOUR THOUSAND AND THIRTY-FIVE OF THE PHILIPPINE LEGISLATURE ENTITLED "AN ACT TO PREVENT DUMPING OF IMPORTED ARTICLES, WARES, OR MERCHANDISE, TO DISC...

REPUBLIC ACT NO. 32, September 25, 1946

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

SECTION 1. Sections one, two, three, four, and five of Act Numbered Four thousand and thirty-five of the Philippine Legislature entitled, "An Act to prevent dumping of imported articles, wares, or merchandise, to discourage unfair practices or methods in the import trade, to impose special customs duties therefore, and for other purposes," are hereby amended so as to read as follows:

"SECTION 1. Whenever the Insular Collector of Customs has reasons to believe that any owner, importer, consignee, agent, is importing or about to import articles, goods, wares, or merchandise either dutiable or duty-free, which importations or attempted importations have or would have the effect or tendency to destroy or injure an industry efficiently and economically operated in the Philippines, or to prevent the development of an industry that is being so established, or to restrain or monopolize trade or commerce in the Philippines, or when he has reasons to believe that an importer, owner, consignee, or agent is indulging in unfair methods of competition which may result in the destruction of industries or in restraint of trade as aforesaid, or whenever he has reasons to believe, from the invoice or other papers or information presented to him, that the purchase price of the exporter's selling price of any imported merchandise is less than its foreign value or, in the absence of such value, the cost of production in the country of origin, it shall be his duty to make report thereof to the Secretary of Finance who shall order an investigation of the matter by a Board composed of the Insular Collector of Customs, the Collector of Internal Revenue, and the Director of Commerce. The investigation shall include a hearing or hearings where the parties affected or other interested parties shall have an opportunity to be heard and to present evidence bearing on the subject-matter of the investigation. The Board shall make report of the findings within thirty days to the Secretary of Finance who shall decide whether the merchandise in question is being imported in violation of this Act. Pending the decision of the Secretary of Finance, the delivery of the merchandise involved shall be withheld unless released under bond as provided in section two hereof. Merchandise which may have been delivered under the provisions of section twelve hundred and seventy-seven of the Administrative Code prior to the institution of the investigation provided in this section shall, pending final decision, be ordered returned to the custody of the Collector of Customs unless released under a new bond as provided in section two hereof.

"SEC. 2. If the Secretary of Finance finds that the importations or attempted importations have or would have the effect or tendency to destroy or substantially injure an industry efficiently and economically operated in the Philippines, or to prevent the development of an industry that is being so established, or to restrain, or monopolize trade or commerce in the Philippines, or that the owner, importer, consignee, or agent, had indulged or was indulging in unfair methods of competition which have or would have the effect of destroying industry or restraining trade, or that the purchase price or the exporter's selling price is less than the foreign market value or, in the absence of such value, the cost of production thereof, it shall be his duty to refuse delivery of the merchandise and cause the owner, importer, consignee, or agent, to reship the merchandise to

the port of origin or to any other foreign port at his expense; or he may permit the importation of the merchandise in question upon payment of special customs duties in addition to the regular duties. The special customs duties shall be equal to the difference between the purchase price or the exporter's selling price and the foreign market value of the merchandise when sold for home consumption, or, in the absence of such value, the cost of production thereof in the country of origin. If the foreign market value or cost of production of the merchandise cannot be ascertained satisfactorily to the Collector, the special customs duties shall be the difference between the purchase price or the exporter's selling price and the Philippine value which shall be the price at which such, or similar imported merchandise is freely offered for, sale, packed ready for delivery in the principal markets of the Philippines to all purchasers, at the time of exportation, of the imported merchandise in the usual wholesale quantities and in the ordinary course of trade, with allowances, made, for regular duties, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding two and one-half per centum, if any has been paid or contracted to be paid on goods secured otherwise than by purchase, and gross profits not exceeding ten per centum: Provided, That the owner, importer, consignee or agent shall be permitted to obtain the release under bond of the merchandise in question pending appeal and final decision of the Case, such bond to be in cash and to run in favor of the Government of the Philippines for double the appraised value of the merchandise, conditioned upon the exportation thereof, at the expense of the owner, importer, consignee, or agent in the case of adverse decision: Provided, however, That if the Secretary of Finance is of the opinion that the release of such merchandise under bond as above provided would result in injury to industries or in restraint of trade, he may refuse to release under bond.

"SEC. 3. The owner, importer, consignee or agent may appeal from the action of the Secretary of Finance to the President of the Philippines within fifteen days after receipt of the Secretary's decision. The decision of the President of the Philippines shall be final.

"SEC. 4. After a decision of the Secretary of Finance has become final either through confirmation by the President of the Philippines or through failure to appeal by the aggrieved party before the expiration of the time set for appeal, and said decision does not authorize importation upon payment of special customs duties, the Insular Collector of Customs shall order the exportation of the merchandise in question to the port of origin or to any other foreign port at the risk and expense of the owner, importer, consignee or agent, and failure on the part of the latter to comply with such order shall result in the confiscation of the bond and the seizure and forfeiture of the merchandise to the Government of the Philippines to be destroyed or disposed of as provided in article twenty, chapter thirty-nine of the Administrative Code, at the discretion of the Insular, Collector of Customs with the approval of the Secretary of Finance.

"SEC. 5. It shall be the duty of all collectors of customs at subports of entry, as well as customs' appraisers, to bring to the attention of the Insular Collector of Customs any case coming within their notice which may, in their opinion, require action by the Insular Collector of Customs as provided in this Act.

"SEC. 2. Section six of Act Numbered Four thousand and thirty-five of the Philippine Legislature is hereby repealed, and in lieu thereof the following is hereby inserted:

"SEC. 6. The Secretary of Finance shall make all rules and regulations necessary to enforce the provision of this Act.

" SEC. 3. This Act shall take effect upon its approval.

Approved, September 25, 1946.

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