

AN ACT CREATING A TARIFF COMMISSION, DEFINING ITS POWERS, AND FOR OTHER PURPOSES.

REPUBLIC ACT NO. 911, June 20, 1953

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

SECTION 1. There is hereby created a Tariff Commission (hereinafter referred to as the "Commission") composed of three members appointed by the President with the consent of the Commission on Appointments. The members of the Commission shall hold office during good behavior unless sooner removed in accordance with law.

SEC. 2. No person shall be eligible for appointment for Commissioner, unless he is a natural-born citizen of the Philippines and in the judgment of the President is possessed of qualifications requisite for developing knowledge of tariff problems. The members of the Commission shall not, during their continuance in office, engage in the practice of any profession, or intervene directly in the management or control of any private enterprise which may, in any way, be affected by the functions of their office; nor shall they, directly or indirectly, be financially interested in any contract with the Government, or any subdivision or instrumentality thereof.

SEC. 3. The Chairman of the Commission shall receive a salary of twelve thousand pesos per annum while each member shall receive a salary of eleven thousand pesos per annum.

The Commission may contract or engage the services of special experts from foreign countries under such terms and conditions as the Commission may determine.

The Commission shall appoint a secretary who shall receive a salary of not more than eight thousand four hundred pesos per annum. Only persons who are experienced in, or in their absence those who are fairly qualified to comprehend, tariff problems may be considered for appointment as secretary of the Commission.

With the exception of the secretary, a clerk to each Commissioner and such special experts as the Commission may from time to time find necessary to conduct its work, all employees of the Commission shall be appointed from a list of eligibles to be supplied by the Civil Service Commission in accordance with the Civil Service Law.

SEC. 4. The Commission is authorized to adopt an official seal, which shall be judicially noticed.

SEC. 5. It shall be the duty of the Commission to investigate the administration, fiscal and industrial effects of the tariff laws of this country now in force or which may be hereafter enacted, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the tariff law, and, in general, to investigate the operation of customs and tariff laws, including their relation to the national revenues, their effect upon the industries and labor of the country and to submit reports of its investigations as hereafter provided.

SEC. 6. The Commission shall have power to investigate the tariff relations between the Philippines and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and

preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the Philippines, including dumping and cost of production.

SEC. 7. In order that the President and the Congress may secure information and assistance, it shall be the duty of the Commission to—

- Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the Philippines of articles of the Philippines, whenever in the opinion of the Commission it is practicable;
- Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the Philippines whenever in the opinion of the Commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the Philippines and can be reasonably ascertained;
- Select and describe articles which are representative of the classes or kinds of articles imported into the Philippines and which are similar to or comparable with articles of the Philippines; select and describe articles of the Philippines similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the Commission deems it advisable;
- Ascertain import costs of such representative articles so selected;
- Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the Philippines of the articles of the Philippines so selected; and
- Ascertain all other facts which will show the differences in or which affect competition between articles of the Philippines and imported articles in the principal markets of the Philippines.

SEC. 8. When used in this section and in section seven—

- The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;
- The term "import cost" means the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the Philippines plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the Philippines.

SEC. 9. The Commission shall put at the disposal of the President of the Philippines, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress, and shall report to Congress on the first Monday of December of each year hereafter a statement of the methods adopted and all expenses incurred, and a summary of all reports made during the year.

SEC. 10. For the purposes of carrying this Act into effect the Commission or its duly authorized agent or agents shall have access to and the right to copy any document, paper, or record, pertinent to the subject-matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation, and shall have power to summon witnesses, take testimony, administer oaths, and to require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation. Any member of the Commission may sign subpoenas, and members and agents of the Commission, when authorized by the

Commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

SEC. 11. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the Philippines at any designated place of hearing at Government expense. And in case of disobedience to a subpoena the Commission may invoke the aid of any municipal or justice of the peace court of the Philippines or any court of competent jurisdiction in the place of hearing requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the Commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

SEC. 12. Upon the application of the Solicitor General of the Philippines, at the request of the Commission, any Court of First Instance within the city or province in which the inquiry is being made shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this Act or any order of the Commission made in pursuance thereof.

SEC. 13. The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided.

SEC. 14. No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence, in obedience to the subpoena of the Commission: but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, except that no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 15. The Commission is authorized, in order to ascertain any facts required, to require any importer and any Philippine grower, producer, manufacturer, or seller to file with the Commission a statement, under oath, giving his selling prices in the Philippines of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

SEC. 16. The Commission shall in appropriate matters act in conjunction and cooperation with the Department of Finance, the Department of Commerce and Industry, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the Commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the Commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the Commission and shall detail, from time to time, such officials and employees to said Commission as he may direct.

SEC. 17. It shall be unlawful for any member of the Commission, or for any employee, agent, or clerk of the Commission, or any other officer or employee of the Philippines, to divulge, or to make known in any manner whatever not provided for by law, to any person, the trade secrets or processes of any person, firm; copartnership, corporation, or association embraced in any examination or investigation conducted by the Commission, or by

order of the Commission, or by order of any member thereof. Any offense against the provisions of this section shall be a misdemeanor and be punished by a fine not exceeding one thousand pesos, or by imprisonment not exceeding one year, or both, in the discretion of the court, and such offender shall also be dismissed from office or discharged from employment.

SEC. 18. The Commission shall make a thorough study of the tariff system of the Philippines, and not later than one and one half years from the date of assumption of office of its members, shall submit its recommendations for a revision of the tariff system together with a draft of a bill embodying a revised tariff law.

SEC. 19. Upon request of the President, or upon resolution of either or both Houses of Congress, or upon its own motion, or when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, the Commission shall investigate the differences in the costs of production of domestic article and of any like or similar foreign article. In the course of the investigation the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this Act. The Commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the Commission finds it shown by the investigation that the duties expressly fixed by existing law do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the Commission shall specify in its report such increases or decreases in rates of duty expressly fixed by existing law (including any necessary changes in classification) as it finds shown by the investigation to be necessary to equalize such differences.

SEC. 20. If the Commission finds upon any such investigation that such differences cannot be equalized by proceeding as hereinbefore provided, it shall so state in its report to the President and shall specify therein such ad valorem rates of duty based upon the Philippines selling price (as hereinafter defined) as it finds shown by the investigation to be necessary to equalize such differences.

The Philippine selling price of any article manufactured or produced in the Philippines shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the Philippines, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary of trade and in the usual wholesale quantities at the time of exportation of the imported article.

The President shall recommend to Congress the rates of duty and changes in classification and in basis of value specified in any report of the Commission under this Act, if in his judgment such rates of duty and changes are shown by such investigation of the Commission to be necessary to equalize such differences in cost of production.

SEC. 21. In ascertaining the differences in costs of production, the Commission shall take into consideration, in so far as it finds practicable:

- In the case of a domestic article, the cost of production as hereinafter in this Act defined; transportation costs and other costs incident to delivery to the principal market or markets of the Philippines for the article; and other relevant factors that constitute an advantage or disadvantage in competition.
- In the case of a foreign article, the cost of production as hereinafter in this Act defined, or if the Commission

finds that such cost is not readily ascertainable, the Commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and for the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in, the ordinary course of trade and in the usual wholesale quantities in such market or markets); transportation costs and other costs incident to delivery to the principal market or markets of the Philippines for the article; other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to foreign producers by a government, person, partnership, corporation, or association in a foreign country.

SEC. 22. For the purpose of this Act—

- The term "domestic article" means an article wholly or in part the growth or product of the Philippines; and the term "foreign article" means an article wholly or in part the growth or product of a foreign country.
- The term "Philippines" includes the several islands of the Philippine Archipelago and the Turtle and Mangsee Islands.
- The term "foreign country" means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the Philippines).
- The term "cost of production", when applied with respect to either a domestic article or a foreign article, includes for a period which is representative of conditions in production of the article: The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for shipment.

SEC. 23. The Secretary of Finance is authorized to make such rules and regulations as he may deem necessary for the entry and declaration of foreign articles of the class or kind of articles with respect to which a change in basis of value has been made under the provisions of section twenty of this Act, and for the form of invoice required at time of entry.

SEC. 24. There is hereby appropriated the sum of three hundred thousand pesos with which to meet the expenses of the Commission created under this Act.

SEC. 25. This Act shall take effect upon its approval.

Approved, June 20, 1953.

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