

NOTIFICATION OF LAWS AND REGULATIONS  
UNDER ARTICLE 32.6 OF THE AGREEMENT

PHILIPPINES

The following communication, dated 9 October 1995, has been received from the Permanent Mission of the Philippines.

In accordance with Article 32.6 of the Agreement on Subsidies and Countervailing Measures, I have the honour to notify Section 302 of the Tariffs and Customs Code of the Philippines, which embodies the countervailing duty law of the Philippines.

I wish to inform the Committee that this law has been in existence since our accession to the Tokyo Round Code on Subsidies and Countervailing Measures in 1985, and there have been no changes therein since then.

Tariff and Customs Code of The Philippines  
July 1994 - Volume 1

Section 302 - Countervailing duty

- (a) Whenever any article is directly or indirectly granted any bounty, subsidy or subvention upon its production, manufacture or exportation in the country of origin and/or exportation, and the importation of which has been determined by the Secretary, after investigation and report of the Commission, as likely to injure an established industry, or prevent or considerably retard the establishment of an industry in the Philippines, there shall be levied a countervailing duty equal to the ascertained or estimated amount of such bounty, subsidy or subvention: Provided, That the injury criterion to a domestic industry shall be applied only in the case of imports from countries which adhere to the GATT Code on Subsidies and Countervailing Duties; Provided, further, That the exemption of any exported article from duty or tax imposed on like articles when destined for consumption in the country of origin and/or exportation or the refunding of such duty or tax, shall not be deemed to constitute a grant of a bounty, subsidy or subvention within the meaning of this subsection: Provided, furthermore, That should an article be allowed drawback by the country of origin and/or exportation, only the ascertained or estimated excess of the amount of the drawback over the total amount of the duties and/or internal taxes, if any, shall constitute a bounty, subsidy or subvention: Provided, finally, That petitions for imposition of countervailing duty shall be filed with the Secretary of Finance. Upon finding of a *prima facie* case of bounty, subsidy or subvention enjoyed by the imported article and injury to, or likelihood of injury to a domestic industry, the Secretary shall refer

the case to the Tariff Commission for investigation and shall instruct the Commissioner of Customs to require the filing of countervailing bonds for importations entered during the pendency of countervailing proceedings;

- (b) The Secretary shall, after receipt of the reports of the Commission, decide whether the article in question is granted any bounty, subsidy or subvention and if so, fix the countervailing duty equal to the ascertained or estimated bounty, subsidy or subvention. He shall give due notice of his decision and shall direct the Commissioner of Customs to cause the countervailing duty to be levied, collected and paid in addition to any ordinary duties, taxes and charges imposed by law on such articles and on articles of the same specific kind or class subsequently imported under similar circumstances.
- (c) Pending investigation and final decision of the case, the article in question shall not be released from customs custody to the owner except upon the filing of a bond equal to the ascertained or estimated amount of bounty, subsidy or subvention as provisionally determined by the Secretary of Finance;
- (d) The article, if not previously released under bond as provided for in this section, shall be released after payment by the party concerned of the corresponding countervailing duty in addition to any ordinary duties, taxes and charges, if any, or re-exported upon the filing of a bond in an amount twice the estimated dutiable value of the article, conditioned upon the presentation of a landing certificate issued by a consular officer of the Philippines at the country of destination. If the article has been previously released under bond, the party concerned shall be required to pay the corresponding countervailing duty in addition to ordinary duties, taxes and other charges, if any;
- (e) Whenever the Commission, on its own motion or upon application of any interested party, finds that the condition which necessitated the imposition of the countervailing duty has ceased to exist, it shall submit the necessary recommendations to the Secretary for the discontinuance of the imposition of that duty. Any order made under this section by the Secretary shall be published in the Official Gazette and/or in a newspaper of general circulation;
- (f) Any countervailing decision promulgated by the Secretary shall be effective for a period of five (5) years from the time of its promulgation except upon the representation of the interested party of the necessity to continue the implementation of the said decision, in which case the Secretary shall advise the Commission to conduct an investigation to determine whether the conditions in paragraph (a) still exist. The action for extension shall be brought before the Secretary at least six (6) months before the expiration of the period.

The findings of the Commission shall be submitted to the Secretary at least three (3) months before the expiration of the period.

- (g) The Secretary and the Commission shall promulgate all rules and regulations necessary to carry out their respective functions under this section.