

## Recent Legislation

# The Import Control Law - Republic Act No. 426

Republic Act No. 426, "An Act To Regulate Imports and For Other Purposes," which took effect on May 15, 1950, repealing Republic Act No. 330, establishes a precedent in our statute laws. Whereas several countries in South America, such as Argentina, Uruguay and Venezuela, and some European countries, as England, Sweden, Norway and Denmark, have long instituted system of import control, the Philippines has only recently, and for the first time, found the need for the promulgation of such a law.<sup>1</sup>

The prostrate condition of the nation's economy after liberation made imperative a drastic remedy. On June 30, 1946, an empty treasury, with a huge deficit of ₱259 millions stared us in the face. There was no export trade worthwhile mentioning. When before the second world war, we were exporting more than we were importing, post-occupation days found us doing just the opposite. The struggle for liberation swept away our industries. Once liberated, the natural reaction of our people was to seek the food, clothing and comforts of life that they had been used to before the war. Hence followed immense imports ranging from consumption goods to the less essential and more luxurious items from abroad. Similarly occupying a significant place in our import trade were reconstruction and capital goods, much needed to rebuild our destroyed homes, blasted centrals, factories and agricultural equipment. It came to pass therefor, that by the middle part of 1949 the unfavorable trade balance reached ₱350 millions representing twice as much as the volume we exported. At the same time our local industries, without the much needed impetus and encouragement, hardly had a chance against an unrestrained overflow of foreign goods.<sup>2</sup>

Available as remedial measures to the government were protection to particular industries either in the form of high tariff duties or in the form of subsidies, or the control of imports of commodities. The use of tariff was deemed inadvisable; the granting of subsidies was considered unwarranted in view of the depleted finances of the government. Control of imports provided the answer.<sup>3</sup>

Basically, the policies embodied in Act 426 are: (1) conservation of our dollar reserves, (2) encouragement and stimulation of

<sup>1</sup> Explanatory note, House Bill No. 1794.

<sup>2</sup> Speech by Secretary of Finance, Pio Pedrosa.

<sup>3</sup> Explanatory Note, House Bill No. 1794.

domestic production or manufacture, and (3) fostering of the habit of thrift among the people.<sup>4</sup>

On December 31, 1945 the Philippines possessed international reserves amounting to ₱1 billion 100 million in round numbers. These reserves are what give value and validity to our peso. But since then, being faced with the stark necessity of providing for the country's needs but having no productive capacity of its own, the nation drew upon its international fund savings. On December 31, 1949 our reserves had ebbed to a dangerously low ₱230,600,000. Following our 1948-1949 import buying rate that balance would have been wiped out in three months. But under control, imports dropped by 41% during the past six months of this year.

Running collaterally to these negative aims is the Act's object of encouraging local industry. During the short period of its effectivity, exports have been increased by 5% compared to the same period last year. The restriction of payments abroad and the cutting of supply of foreign goods has encouraged domestic production of many of the controlled imports and of substitute goods.

For the purpose of carrying into effect the provisions of the law, two agencies—the Import Control Board and the Import Control Administration were created. The first is policy-determining in nature and the second discharges administrative functions supplementary to that of the Board.<sup>5</sup> It should also be noted that the Board exercises quasi-judicial powers insofar as any decision, ruling or opinion issued by the Import Control Administration or its Commissioner is concerned.<sup>6</sup> Appointment of the three members of the Board<sup>7</sup> and of the Commissioner of the Import Control Administration is made by the President with the consent of the Commission on Appointments,<sup>8</sup> and the personnel of the Import Control Administration are appointed by the Commissioner subject to the approval of the Board and under civil service rules and regulations.<sup>9</sup> Under Section 20, "no member of the Import Control Board nor any officer of the Central Bank (whose functions in connection with import control is defined in Sections 17 and 18 of the Act) or the Import Control Administration shall directly or indirectly be financially interested in any importation business, nor shall he engage himself in the importation of goods subject to the restrictions provided for in this Act."

For the purposes of the Act, importers are classified into old and new.<sup>10</sup> "Old importer" refers to any person, whether natural or juridical, who imported a particular commodity in the years 1946, 1947 and/or 1948, while "new importer" refers to all other importers

<sup>4</sup> Sec. 7 (1) 2nd par., (4) 2nd par.; Sec. 7 (2) 2nd par., (3) 3rd par., and Sec. 7 (4) 2nd par., Republic Act 426.

<sup>5</sup> Secs. 3 and 4, Republic Act No. 426.

<sup>6</sup> Sec. 3, *ibid.*

<sup>7</sup> Sec. 2, *ibid.*

<sup>8</sup> Secs. 2 and 4, *ibid.*

<sup>9</sup> Sec. 4 (4), *ibid.*

<sup>10</sup> Sec. 1 (5) and (6), *ibid.*

—which may mean importers previous to 1946 or to those who secured permits to import under this Act. A new importer must be a Filipino citizen or a juridical entity at least 60% of whose stock is owned by Filipino citizens. This provision of law envisions protection of Filipino enterprise in the face of overwhelming foreign capital. However, nothing in this act shall in anyway impair or abridge the rights granted to citizens and juridical entities of the United States of America under the Executive Agreement signed on July 4, 1946, between that country and the Republic of the Philippines.<sup>11</sup> All government agencies importing any particular article, goods or commodity shall be included and considered as private importers.<sup>12</sup>

Importable commodities or goods fall under two general classifications: those which are subject to quota allocation and those admissible without import quota allocation. To the first classification pertain: (1) prime imports consisting of articles, goods and commodities of prime and/or first necessity not sufficiently available locally; (2) essential imports consisting of goods, etc. which though not of prime necessity, are necessary for the health and material well-being of the people; (3) non-essential imports consisting of articles, etc. though not necessary for the health and material well-being of the people, but whose consumption is concomitant with the rise of their standard of living; and (4) luxury imports consisting of articles, etc. intended for ostentation or pleasure.<sup>13</sup> Importation of these commodities are subject to a graduated reduction in percentage depending on the importance of the goods.

Belonging to the second category are those enumerated in Sec. 8, such as raw materials to be used in the manufacture of commodities constituting prime or first necessity imports; those intended for the personal use of the importer himself; supplies for the use of the Armed Forces, the Philippine government, hospitals, educational or charitable institutions; those to be used solely for religious rites; articles and goods bartered or exchanged with Filipino goods, subject to certain restrictions, and goods intended for rent, lease or exhibitions, subject to certain limitations.<sup>14</sup>

The Import Control Board is empowered to fix the import quota<sup>15</sup> and the Import Control Commissioner has the power to allocate the quota<sup>16</sup> which may be allotted to each importer. The portion of import quotas available for old importers shall be allocated by the Commissioner among them in proportion to the annual average amount of their importation of articles and on the evidence of the sales tax actually paid by them, corresponding to the years 1946, 1947 and 1948; but no importer shall be allowed more than 30% of the total import quota for any item, except when such limitation may, in the opinion of the Import Control Board be de-

<sup>11</sup> Sec. 14, Republic Act No. 426.

<sup>12</sup> Sec. 13, *ibid.*

<sup>13</sup> Sec. 7, *ibid.*

<sup>14</sup> Sec. 8, *ibid.*

<sup>15</sup> *Import quota* refers to the total value of any item of import allowed for entry into the Philippines for any specified period.

<sup>16</sup> *Quota allocation* refers to the total value of imports of any particular item allowed to an importer, or that portion of the import quota granted to the importer.

trimental to the public interest.<sup>17</sup> A certain percentum of the total import quota for any goods, articles or commodities corresponding to each fiscal year from 1950 to 1958 shall be reserved to bona-fide new importers who did not import such items during the years 1946 to 1948. Should there be no new applicant or should the reserved portion be not entirely covered by new applicants, the said reserved portion of the import quota or any balance thereof shall be allocated among the rest of the importers.

The business of importation, which necessarily involves the question of foreign exchange—or the medium for affecting international payments, necessitates the office of the Central Bank, which discharges its functions thru its Monetary Board, as set forth in Sections 17, 18 and 19 of the law.

While the law elicited criticisms from the press and protests from certain business quarters, it is undeniable that the government had to resort to this measure in order to conserve our external reserves and to serve at the same time as a compelling force for our local industries to locate themselves and for our people to get more conscious of and dependent upon goods which can be produced locally. The government realizes the difficulties created by the imposition of control; it is cognizant of the fact that import control is an artificial and a negative measure which under ordinary and stable circumstances should find no place in our economy. But we need it imperatively and it is for us to realize that by practising frugality and less ostentation now, we insure our salvation and the security and stability of our future.

● RAMON PEDROSA and PONCIANO GABRIEL MATHAY

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<sup>17</sup> Sec. 12, Republic Act No. 426.