

[Commonwealth Act No. 733, July 03, 1946]

AN ACT TO ACCEPT THE EXECUTIVE AGREEMENT TO BE ENTERED INTO BETWEEN THE PRESIDENT OF THE PHILIPPINES AND THE PRESIDENT OF THE UNITED STATES PURSUANT TO TITLE IV OF PUBLIC LAW 371-79TH CONGRESS, APPROVED ON APRIL 30, 1946, ENTITLED "AN ACT TO PROVIDE FOR THE TRADE RELATIONS BETWEEN THE UNITED STATES AND THE PHILIPPINES, AND FOR OTHER PURPOSES" AND TO AUTHORIZE THE PRESIDENT OF THE PHILIPPINES TO FORMALLY EXECUTE THE SAME ON OR AFTER JULY 4, 1946; TO ENACT THE PROVISIONS OF PARTS 2, 3, 4, AND 5 OF TITLE III OF THE SAID ACT OF CONGRESS AS LAWS OF THE PHILIPPINES DURING THE EFFECTIVENESS OF THE SAID EXECUTIVE AGREEMENT; AND TO IMPLEMENT THE PENAL CLAUSES OF SAID AGREEMENT IN ORDER TO CARRY OUT TITLE I OF THE PHILIPPINE REHABILITATION ACT OF 1946.

WHEREAS, pursuant to Title IV of Public Law 371-79th Congress approved April thirty, nineteen hundred forty-six, entitled "An Act to Provide for the Trade Relations Between the United States and the Philippines, and for other purposes," the President of the United States and the president of the Philippines have agreed to enter into an executive agreement which reads as follows:

"AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES CONCERNING TRADE AND RELATED MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE INSTITUTION OF PHILIPPINE INDEPENDENCE.

"The President of the United States of America and the President of the Philippines, recalling the close economic ties between the people of the United States and the people of the Philippines during many years of intimate political relations, mindful of the great physical destruction and social disturbances suffered by the Philippines as a result of their valiant support of the cause of the United Nations in the war against Japan, and desiring to enter into an Agreement accepting on the part of each country the provisions of Title II and Title III (except Part 1) of the Philippine Trade Act of 1946 of the United States of America, have agreed to the following Articles:

"ARTICLE I

"1. During the period from the date of the entry into force of this Agreement to July 3, 1954, both dates inclusive, United States articles as defined in Subparagraph (e) of Paragraph 1, of the Protocol to this Agreement entered, or withdrawn from warehouse, in the Philippines for consumption, and Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol entered, or withdrawn from warehouse, in the United States for consumption, shall be admitted into the Philippines and the United States, respectively, free of ordinary customs duty.

"2. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from July 4, 1954, to July 3, 1974, both dates inclusive, are entered,

or withdrawn from warehouse, in the Philippines for consumption, and on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified items D to G. both inclusive, of the Schedule to Article II, which during such portions of such period are entered, or withdrawn from from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol, and of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol, respectively:

" (a) During the period from July 4, 1954, to December 31, 1954, both dates inclusive, five *per centum*.

" (b) During the calendar year 1955, ten *per centum*.

" (c) During each calendar year after the calendar year 1955 until and including the calendar year 1972, a percentage equal to the percentage for the preceding calendar year increased by five *per centum* of the Philippine duty and the United States duty, respectively, as so defined.

" (d) During the period from January 1, 1973, to July 3, 1974, both dates inclusive, one hundred *per centum*.

"3. Customs duties on United States articles, and on Philippine articles, other than ordinary customs duties shall be determined without regard to the provisions of Paragraphs 1 and 2 of this Article, but shall be subject to the provisions of Paragraph 4 of this Article.

"4. With respect to United States articles imported into the Philippines, and with respect to Philippine articles imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles. As used in this Paragraph the term 'duty' includes taxes, fees, charges, or exactions, imposed on or in connection with importation; but does not include internal taxes or ordinary custom duties.

"5. With respect to products of the United States which donot come within the definition of United States articles, imported into the Philippines, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country. As used in this Paragraph the term 'duty' include taxes, fees, charges, or exactions imposed on or in connection with importation; but does not include internal taxes.

"6. With respect to products of the Philippines, which do not come within the definition of Philippine articles, imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country (except Cuba), or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country (except Cuba). As used in this Paragraph the term 'duty' includes taxes, fees,

charges, or exactions, imposed on or in connection with importation; but does not include internal taxes.

"ARTICLE II

"1. During the period from January 1, 1946, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A-1, and C to G, both inclusive, of the Schedule to this Article which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption shall not exceed the amounts specified in such Schedule as to each class of articles. During the period from January 1, 1946, to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this Article which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively.

"2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in Items D to G, both inclusive, of the Schedule to this Article, which during the following portions of the period from January 1, 1946, to December 31, 1973, both dates inclusive, are entered, or withdrawn from warehouse, in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following percentages of the amounts specified in such Schedule as to each such class of articles:

"(a) During each of the calendar years 1946 to 1954, one hundred *per centum*.

"(b) During the calendar year 1955, ninety-five *per centum*.

"(c) During each calendar year after the calendar year 1955 until and including the calendar year 1973, a percentage equal to the percentage for the preceding calendar year decreased by five *per centum* of such specified amounts.

Any such Philippine article so entered or withdrawn from warehouse in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred *per centum* of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol.

"3. Each of the quotas provided for in Paragraphs 1 and 2 of this Article for articles falling within one of the classes specified in Items A-1 and B, and D to G, each inclusive, of the Schedule to this Article shall be allocated annually by the Philippines to the manufacturers in the Philippines in the calendar year 1940 of products of a class for which such quota is established, and whose products of such class were exported to the United States during such calendar year, or their successors in

interest, proportionately on the basis of the amount of the products of such class produced by each such manufacturer (or in the case of such successor in interest, the amount of the products of such class produced by his predecessor in interest) which was exported to the United States during the following period: (a) In the case of Item A-1 and D to G, each inclusive, the calendar year 1940, and (b) In the case of Item B, the twelve months immediately preceding the inauguration of the Commonwealth of the Philippines. The quota provided for in Paragraph 1 of this Article for unrefined sugar specified in Item A of such Schedule, including that required to manufacture the refined sugar specified in Item A-1 of the Schedule, shall be allotted annually by the Philippines to the sugar-producing mills and plantation owners in the Philippines in the calendar year 1940 whose sugars were exported to the United States during such calendar year, or their successors in interest, proportionately on the basis of their average annual production (or in the case of such a successor in interest, the average annual production of his predecessor in interest) for the calendar years 1931, 1932, and 1933, and the amount of sugars which may be so exported shall be allocated in each year between each mill and the plantation owners on the basis of the proportion of sugars to which each mill and the plantation owners are respectively entitled, in accordance with any milling agreements between them, or any extension, modification, or renewal thereof.

"4. The holder of any allotment under law existing on April 29, 1946, including his successor in interest, and the holder of any allotment under any of the quotas which are provided for in Paragraphs 1 and 2 of this Article the allocation of which is provided for in Paragraph 3 of this Article, may transfer or assign all or any amount of such allotment on such terms as may be agreeable to the parties in interest. If, after the first nine months of any calendar year, the holder of any allotment, for that year, under any of the quotas referred to in the preceding sentence, is or will be unable for any reason to export to the United States all of his allotment, in time to fulfill the quota for that year, that amount of such allotment which it is established by sufficient evidence cannot be so exported during the remainder of the calendar year may be apportioned by the Philippine Government to other holders of allotments under the same quota, or in such other manner as will insure the fulfillment of the quota for that year: *Provided*, That no transfer or assignment or reallocation under the provisions of this Paragraph shall diminish the allotment to which the holder may be entitled in any subsequent calendar year.

"The following Schedule to Article II shall constitute an integral part thereof:

(See table of COMMONWEALTH ACTS NO. 733 in COMMONWEALTH ACTS Nos. 654-733, 1941-1946, Page 7 to Page 8)

"ARTICLE III

"1. With respect to quotas on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the quotas provided for in Paragraphs 1 and 2 of Article II, and other than quotas established in conjunction with quantitative limitations, applicable to products of all foreign countries, on imports of like articles), the United States will not establish any such quota for any period before January 1, 1948, and for any part of the period from January 1, 1948, to July 3, 1974, both dates inclusive, it will establish such a quota only if-

"(a) The President of the United States, after investigation, finds and proclaims that such Philippine articles are coming, or are likely to come, into substantial competition with like articles the product of the United States;

"(b) The quota for any Philippine article as so defined for any twelve month period is not less than amount determined by the President as the total amount of Philippine articles of such class which (during the twelve months ended on the last day of the month preceding the month in which occurred the date proclaimed by the President as the date of the beginning of the investigation) was entered, or withdrawn from warehouse, in the United States for consumption; or, if the quota is established for any period other than a twelve-month period, is not less than a proportionate amount.

Any quota established pursuant to this Paragraph shall not continue in effect after the President, following investigation, finds and proclaims that the conditions which gave rise to the establishment of such quota no longer exist.

"2. If the President of the United States finds that the allocation of any quota established pursuant to of this Paragraph 1 of this Article is necessary to make the application of the quota just and reasonable between the United States and the Philippines, he shall, in such proclamation or a subsequent proclamation, provide the basis for such allocation, and if he exercises such right, the Philippines will promptly put and keep in effect, on the basis proclaimed by the President of the United States, the allocation of such quota.

"ARTICLE IV

"1. With respect to articles which are products of the United States coming into the Philippines, or with respect to articles manufactured in the Philippines wholly or in part from such articles, no internal tax shall be-

"(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the Philippines, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

"(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the Philippines, or (2) with respect to materials used in the production of a like article which is the product of the Philippines, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the United States is not in excess of that permitted by Paragraph 1, (b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph.

"2. With respect to articles which are products of the Philippines coming into the