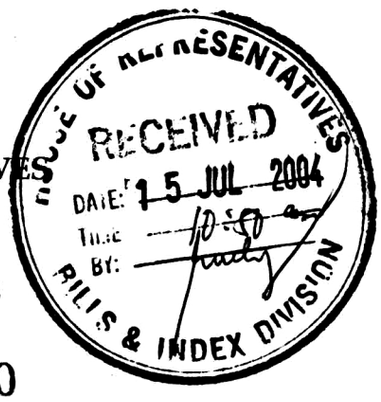


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Diliman, Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 1450

Introduced by
HON. MAURICIO G. DOMOGAN

AN ACT AMENDING REPUBLIC ACT NO. 7898 OTHERWISE KNOWN AS THE "AFP MODERNIZATION ACT"

EXPLANATORY NOTE

Republic Act No. 7898 was enacted in 1995 with the grand purpose of modernizing our Armed Forces. Sadly, the envisioned modernization never really gained ground due to .several concerns such as lack of funding, circuitous procurement system, devaluation of the Philippine Peso: vis-à-vis the American Dollar, the 1997 Asian economic slump, and so forth.

In order to address some of the concerns which were experienced in the implementation of the Armed Forces of the Philippines (AFP) Modernization Act, the proposed Bill advances the following amendments thereto, to wit: 1) fixing the annual appropriation for the AFP Modernization Act in an amount not less than three- tenths of one percentum (0.3%) of the last officially-reported gross national product; 2) as part of the Self-Reliant Defense Posture (SRDP) Program, establishing a continuous research and development program designed to utilize new technology and upgrade existing AFP inventory of equipment and weapon systems; 3) expanding the sources of funding for the AFP Modernization Act Trust Fund to include the proceeds from the lease and/or joint venture agreements and such other dispositions pertaining to military camps; 4) adopting a simplified Defense Acquisition System which shall be separate and distinct from the procurement system applicable to other departments of government; 5) creating the office of the Undersecretary in the Department of National Defense for Resource Management and Capability Development which will be tasked with contract negotiation, acquisition and procurement of the equipment and non-equipment requirements of the AFP; 6) exempting the AFP modernization projects, undertakings, activities and programs from all

fees, taxes, duties and assessments imposed and/or required by government and non-government agencies; and 7) making the modernization of the AFP a continuing effort and not merely for fifteen (15) year period.

While the above amendments will not totally eliminate all obstacles to the modernization of the AFP, it will no doubt be a good start. And, for this reason, the immediate passage of the present House Bill is most earnestly sought before this august Chamber.

MAURICIO G. DOMOGAN

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

SECTION 1. Section 3 of Republic Act No. 7898 is hereby amended to read as follows:

"Sec. 3 .Objectives of the AFP Modernization ACT -The AFP modernization ACT shall be implemented in accordance with the following objectives:

(a) To develop its capability to uphold the sovereignty and territorial integrity of the Republic and to secure the national territory from all forms of intrusion and encroachment;

(b) TO DEVELOP ITS CAPABILITY TO DETECT, PREVENT, NEUTRALIZE AND REPEL INTERNAL THREATS AGAINST THE FILIPINO PEOPLE, THE GOVERNMENT AND ITS INSTITUTIONS;

(c) To develop its capability to assist civilian agencies in the preservation of the national patrimony, including the country's living and nonliving marine, submarine, mineral, forest and other natural resources located within its territory and its exclusive economic ZONE (EEZ);

(d) To enhance its capability to fulfill its mandate to protect the Filipino people not only from armed threats but from the ill effects of life-threatening and destructive consequences of natural and man-made disasters and calamities, including typhoons, earthquakes, volcanic

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eruptions, major accidents in far- flung or inaccessible terrain or at sea and from all forms of ecological damage;

(e) To improve its capability to assist other agencies in the enforcement of domestic and foreign policies as well as international covenants against TERRORISM, piracy, white slavery, smuggling, drug trafficking, hijacking of aircraft and seacraft and the transport of toxic and other ecologically-harmful substances taking place in or through Philippine territory;

(f) To enhance its capability to assist the Philippine National Police in law enforcement and in internal security operations;

(g) To enhance its capability to fulfill the country's international commitments; and

(h) To develop its capability to support national development."

SECTION 2. Section 4 of the same Act is hereby amended to read as follows:

"Sec. 4. PROGRAMS UNDER THE AFP MODERNIZATION ACT-- THE AFP MODERNIZATION ACT SHALL CONSIST OF THE FOLLOWING PROGRAMS:

(a) Force restructuring and organizational development -The AFP modernization ACT shall develop the AFP into a compact, efficient, responsive and modern force with the capability to engage in conventional and/or unconventional warfare, disaster relief and rescue operations, and contribute to economic development and other nontraditional military roles.

This component of the modernization [program] ACT shall likewise provide for the identification, organization, training and development of reserve force and affiliated reserve units in the AFP especially in the Navy and Air Force.

(b) Capability, material and technology development -The AFP modernization ACT entails the development and employment of certain capabilities that can address the assessed threats. *Provided,* That the

acquisition of air force, navy and army equipment and material of such types and quantities shall be made in accordance with the need to develop AFP capabilities pursuant to its modernization objectives. *Provided, further,* That the acquisition of new equipment and weapons systems shall be synchronized with the phase-out of uneconomical and obsolete major equipment and weapons systems in the AFP inventory .*Provided; even further,* That, WITH THE EXCEPTION OF LOCALLY - MANUFACTURED MAJOR EQUIPMENT AND WEAPONS SYSTEM WHICH ARE OF PROVEN QUALITY AND RELIABILITY, no major equipment and weapons system shall be purchased if the same are not being used by the armed forces in the country of origin or used by the armed forces of at least two countries~. *Provided; furthermore,* That only offers from suppliers who are themselves the manufacturers shall be entertained. *Provided, finally,* That no supply contract shall be entered into unless such contract provides for, in clear and unambiguous terms, after-sales services and the availability of spare parts.

(c) Bases/support system development -The AFP modernization [program] ACT shall entail the development of permanent bases for land, air and naval forces to conform with national defense strategies and the government's socioeconomic thrusts; provide a systematic relocation of AFP units to enhance their capability in the performance of their mission; provide adequate support systems and housing facilities to AFP units and personnel; provide training grounds for maneuver and territorial forces as well as the reserve components; and develop bases and camps along standard criteria for space allocations, zoning and efficient correlation of land areas and structure.

(d) Human resource development - The human resource development component of the AFP modernization ACT shall have the following objectives:

(1) To strengthen the patriotic spirit and nationalist consciousness of the military and respect for people's rights in the performance of ITS duty;

(2) To develop and transform the AFP into a MULTI-MISSION CAPABLE FORCE CAPABLE OF EFFECTIVELY UNDERTAKING INTERNAL AND EXTERNAL SECURITY-ORIENTED OPERATIONS;

(3) To develop a compact, effective, efficient and responsive citizen-based force;

(4) To implement programs that will enable the AFP to perform its role in environment/resource protection and multi-national peace-keeping operations;

(5) To convert the AFP into a service/people-oriented and professionally united force; and

(6) To improve the quality of life of soldiers and their families and reorient values of all personnel in the AFP TOWARDS THE ENHANCEMENT OF THE SERVICE.

(e) Doctrines development -The transition of the AFP TO A MULTI-MISSION CAPABLE FORCE requires the review, evaluation and validation of its present set of doctrines for the purpose of formalizing such doctrines. Towards this end, the Department of National Defense and the General Headquarters, AFP shall be responsible the generation, evaluation, consolidation and formalization of doctrines; the conduct of periodic review and validation of doctrines through field application, testing and exercises; and the dissemination of approved doctrines at all levels of command.

The Secretary of National Defense shall formulate guidelines to implement this section in accordance with the objectives of the modernization ACT enumerated in the preceding section."

SECTION 3. Section 5 of the same Act is hereby amended to read as follows:

"Sec. 5. Development of AFP Capabilities - The AFP modernization [program] ACT shall be geared towards the development of the following defense capabilities:

(a) Development of naval defense capability -Given the archipelagic nature of the Philippines, the Philippine Navy (PN) shall develop its capabilities for AIR. SURFACE AND SUB-SURFACE WARFARE. THESE SHALL INCLUDE, BUT NOT LIMITED TO, SEALIFT AND TRANSPORT, NAVAL AIR RECONNAISSANCE, RESCUE AND RELIEF, ANTI-AIR WARFARE, AMPHIBIOUS WARFARE, MINE WARFARE, ANTI-SUBMARINE WARFARE, SUBMARINE WARFARE, SPECIAL OPERATIONS, FLEET SUPPORT, NAVAL CONSTRUCTION, COMMAND AND CONTROL, AND NAVAL INTELLIGENCE. The enhanced navy defense capabilities shall enable the AFP to:

(1) Develop its capabilities for naval defense;

(2) Conduct amphibious operations for both military and civilian relief operations;

(3) Defend the Philippine territorial seas, all its internal waters, as well as its 200-mile exclusive economic zone (EEZ), from all forms of illegal intrusion or passage;

(4) Protect all submarine-based lines of domestic and international communication;

(5) Identify all vessels and monitor all kinds of surface and submarine passage through Philippine territorial waters;

(6) Protect and preserve, IN SUPPORT OF the Philippine Coast Guard (PCG), all coastal, near-coastal and riparian living and nonliving marine resources;

(7) Provide transportation of personnel and materiel in times of natural disaster and rescue operations; and

(8) Provide, and if practicable, manufacture, through Filipino skills and technology, its own requirements for seacraft and infrastructure supply and maintenance.

(b) Development of air defense capability - The Philippine Air Force (PAP), being the country's first line of external defense, shall develop its air defense capability by acquiring multi-role aircraft, air munitions, avionics, point and area defense missile system, maritime patrol and reconnaissance, and early warning and control system, as well as capabilities for strategic and battlefield airlift and limited ground attack in support of surface forces. The enhanced air defense capability shall enable the APP to:

(1) Detect, identify, intercept and engage, if necessary, any aircraft illegally intruding into or passing through Philippine airspace, up to areas near or around Philippine territorial limits;

(2) Provide air support to Philippine ground and naval armed forces;

(3) Provide airlift, search and rescue and rapid DEPLOYMENT and related support in combat as well as disaster and other civilian relief operations; and

(4) Provide, and if practicable, manufacture, through Filipino skills and technology, its own requirements for aircraft and infrastructure supply and maintenance.

(c) Development of ground defense capability -The fragmented nature of Philippine land territory required the Philippine Army (P A) to develop its capabilities for ground defense and internal security as well as its capability for assistance to national development, search and rescue operations, relief and rehabilitation, natural resources and environmental protection. The enhanced army defense capabilities shall enable the APP to:

x x x."

SECTION 4. Sections 6 and 7 of the same Act are hereby repealed.

SECTION 5. Section 8 of the same Act is hereby amended to read as follows:

"SEC. 6. Appropriations for the AFP Modernization ACT -THE AFP MODERNIZATION ACT SHALL HAVE AN ANNUAL APPROPRIATION IN AN AMOUNT NOT LESS THAN THREE- TENTHS OF ONE PERCENTUM (0.3%) OF THE LAST OFFICIALLY - REPORTED GROSS NATIONAL PRODUCT."

The funds to be appropriated by Congress under this Act shall be treated as a distinct and separate budget item from the regular appropriation for the Department of National Defense (DND) and the AFP and shall be administered by the Secretary of National Defense.

SECTION 6. Multi-year Contracts and other Contractual Arrangements - The Secretary of National Defense, pursuant to THIS ACT may, subject to the approval by the President, provisions of existing laws and regulations including those of the Commission on Audit and under such terms and conditions most favorable to the government, enter into multi-year contracts, lease and lease-purchase agreements.

SECTION 7. Self-Reliant Defense Posture Program -

(a) In implementing the modernization ACT, the AFP shall, as far as practicable, give preference to Filipino contractors and suppliers or foreign contractors or suppliers WHO/WHICH ARE willing and able to ESTABLISH a substantial portion of THE production process of the item(s) involved, IF NOT THE WHOLE OF IT, within the Philippines.

(b) In order to reduce foreign exchange outflow, generate local employment opportunities and enhance technology transfer to the Philippines, the Secretary of National Defense shall, as far as feasible, incorporate in each contract OR agreement special foreign exchange reduction schemes such as countertrade, in-country manufacture, co-production or other innovative arrangements or combinations thereof.

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(c) The AFP shall likewise ensure that, in negotiating all applicable contracts or agreements, provisions are incorporated WITH RESPECT TO the transfer to the AFP of the principal technology involved as well as the training of AFP personnel to operate and maintain such equipment or technology.

(d) A CONTINUOUS RESEARCH AND DEVELOPMENT PROGRAM SHALL BE ADOPTED FOR PURPOSES OF UTILIZING NEW TECHNOLOGY OR OTHERWISE UPGRADING EXISTING AFP INVENTORY OF EQUIPMENT AND WEAPON SYSTEMS. THE NECESSARY FUNDING FOR THIS PROGRAM SHALL BE SOURCED FROM THE APPROPRIATION PROVIDED FOR UNDER THIS ACT.

SECTION 8. AFP Modernization Act Trust Fund -There is hereby created a trust fund, to be known as the AFP Modernization Act Trust Fund. Said trust fund SHALL BE DEPOSITED IN AN AUTHORIZED GOVERNMENT DEPOSITARY BANK UNDER THE NAME OF THE AFP MODERNIZATION ACT TRUST FUND AND shall be used exclusively for the AFP [M] modernization [program] ACT, but not to include salaries and allowances. THE TRUST FUND shall be funded out of the following:

(a) Appropriations for the AFP modernization [program] ACT PROVIDED, THAT UNDISBURSED AMOUNTS AT THE END OF ANY YEAR SHALL BE CARRIED OVER TO THE SUCCEEDING YEAR;

(b) The proceeds from the sale, lease or joint development of military reservations, as may be authorized by Congress, including such immovable and other facilities as may be found therein not OTHERWISE covered by the Bases Conversion Development Authority, as provided for in Republic Act No. 7227;

(c) Shares of the AFP from the proceeds of the sales of military camps provided for under Republic Act No. 7227 AS WELL AS THE PROCEEDS FROM THE LEASE AND/OR JOINT -VENTURE AGREEMENTS AND SUCH OTHER DISPOSITIONS PERTAINING TO THE SAME CAMPS;

(d) Proceeds from the sale of the products of the Government Arsenal AND/OR, IN CASE OF JOINT VENTURE, ALL INCOMES EARNED FROM THE EQUITY SHARE OF THE GOVERNMENT ARSENAL FROM THE JOINT VENTURE;

(e) The proceeds from the disposal of excess and/or uneconomically repairable equipment and other movable assets of the AFP and the government arsenal;

(f) Funds from budgetary surplus, if any, as may be authorized by Congress, subject to the provisions of SECTION 6 of this Act;

(g) All interest income of the trust fund.

(H) AND OTHER SOURCES AS MA Y BE IDENTIFIED AND AS APPROVED BY THE PRESIDENT.

The trust fund shall be administered by the Secretary of National Defense in accordance with existing government auditing rules and regulations. THE DEPARTMENT OF NATIONAL DEFENSE SHALL CONDUCT PERIODIC STUDIES ON HOW TO MAXIMIZE THE UTILIZATION OF THE TRUST FUND AND HOW ADDITIONAL REVENUES CAN BE GENERATED TO FUND THE AFP MODERNIZATION."

SECTION 9. Modernization of the Government Arsenal -The modernization of the government arsenal, for the development of production capabilities to enhance self-sufficiency in defense requirements, shall be part of the AFP modernization ACT. The government arsenal shall be effectively utilized in the production of basic weapons, ammunition and other munitions for the use of the AFP and the Philippine National Police (PNP), and for the sale and export of products in excess of AFP/PNP requirements. The government arsenal may use such production facilities as it may own or be provided with under this Act or as it may arrange, under joint venture, co-production or similar arrangements, with local and foreign entities." PROVIDED FURTHER THAT IN CASE OF JOINT VENTURE:

(A) THE AFP, PNP AND OTHER GOVERNMENT AGENCIES ARE HEREBY MANDATED TO SOURCE THEIR AMMUNITION AND OTHER MUNITIONS REQUIREMENTS FROM THE JOINT VENTURE (JV) COMPANY TO SERVE AS THE JV'S DOMESTIC MARKET BASE;

(B) THE PROCUREMENT FROM THE JV OF THE AMMUNITION AND OTHER MUNITIONS INTENDED FOR THE AFP, PNP AND OTHER GOVERNMENT AGENCIES SHALL BE PROGRAMMED AND PAID THROUGH THE GOVERNMENT ARSENAL; AND

(C) THE GOVERNMENT ARSENAL SHALL REMAIN AS A BUREAU UNDER THE DND TO SERVE AS THE ADMINISTRATOR OF THE DEFENSE INDUSTRIAL ESTATE WITHIN ITS PRESENT JURISDICTION AND SUCH OTHER AREAS AS MA Y HEREAFTER BE DESIGNATED TO PERFORM ITS MANDATE UNDER RA 1884 AND EO 292.

PROVIDED FINALLY THAT THE PRESENT SITE OF THE GOVERNMENT ARSENAL, AS DEFINED BY PRESIDENTIAL PROCLAMATION NUMBER 361-A DATED 7 MARCH 1968, IS HEREBY DECLARED A DEFENSE INDUSTRIAL ECONOMIC ZONE WITH INVESTMENTS THEREAT ENTITLED TO SUCH T AX PRIVILEGES AND OTHER APPROPRIATE INCENTIVES THAT ARE ALLOWED UNDER RA 7042, AS AMENDED, AND OTHER EXISTING LAWS.

SECTION 10. Section 14 of the same Act is hereby amended to read as follows:

"SEC. 11. ACQUISITION System FOR THE AFP MODERNIZATION ACT-- THE DND SHALL HAVE A DEFENSE ACQUISITION SYSTEM WHICH SHALL BE SEPARATE AND DISTINCT FROM THAT OF AND THOSE APPLICABLE TO OTHER DEPARTMENTS. THIS SYSTEM SHALL SIMPLIFY THE procedures for equipment AND NON-EQUIPMENT acquisition, taking into account new requirements under the AFP modernization ACT.

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PROJECT IDENTIFICATION AND REQUIREMENT DETERMINATION SHALL BE CONDUCTED AT THE LEVEL OF THE AFP."

ON THE OTHER HAND, CONTRACT NEGOTIATIONS, ACQUISITION AND PROCUREMENT SHALL BE DONE AT THE LEVEL OF THE DND. AN OFFICE OF THE UNDERSECRETARY OF THE DND FOR RESOURCE MANAGEMENT AND CAPABILITY DEVELOPMENT IS HEREBY CREATED FOR THE PURPOSE.

SECTION 11. There will be a Section 12 which will be inserted in the same Act which will read as follows:

"SEC. 12. AFP MODERNIZATION ACT EXEMPTION FROM FEES, TAXES, DUTIES AND ASSESSMENTS -ALL PROJECTS, UNDERTAKINGS, ACTIVITIES AND PROGRAMS UNDER THE AFP MODERNIZATION ACT SHALL BE EXEMPT FROM ANY AND ALL FEES, TAXES, DUTIES AND ASSESSMENTS IMPOSED AND/OR REQUIRED BY GOVERNMENTAL AND NON- GOVERNMENTAL AGENCIES, BODIES AND/OR ENTITIES."

SECTION 12. Section 15 of the same Act is hereby amended to read as follows:

SECTION 13. [Guidance for the President] IMPLEMENTATION OF THE AFP MODERNIZATION PROGRAMS -THE DEPARTMENT OF NATIONAL DEFENSE, IN CONSULTATION WITH THE AFP, SHALL, WITHIN NINETY (90) DAYS FROM THE APPROVAL OF THIS ACT, SUBMIT TO THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES AS COMMANDER-IN-CHIEF, FOR HIS APPROVAL, THE PRE-DETERMINED PROJECTS, ACTIVITIES, UNDERTAKINGS AND SCHEDULE OF THE AFP MODERNIZATION PROGRAMS WHICH SHALL INCLUDE:

(A) THE SIZE AND SHAPE OF THE AFP IN TERMS OF PERSONNEL, EQUIPMENT AND FACILITIES;

(B) THE MAJOR WEAPON AND NON- -WEAPON EQUIPMENT AND TECHNOLOGY ACQUISITION SOUGHT BY THE SERVICES AND UNITS OF THE AFP AND MAJOR INFRASTRUCTURE, CONSTRUCTION OR IMPROVEMENT INTENDED TO BE MADE; AND

(C) THE PRIORITIES AND ESTIMATED COSTS THEREOF.

THE AFP MODERNIZATION PROGRAMS SHALL BE IN FORCE AND EFFECT FOR A PERIOD OF FIVE (5) YEARS FROM THE DATE OF APPROVAL THEREOF. THEREAFTER, A PERIODIC REVIEW MA Y BE CONDUCTED BY THE DEPARTMENT OF NATIONAL DEFENSE, TOGETHER WITH THE AFP, AND NECESSARY REVISIONS THEREOF MAY BE MADE, SUBJECT TO THE APPROVAL OF THE PRESIDENT OF THE PHILIPPINES .

HOWEVER, to meet unforeseen national security emergencies, the President, upon the recommendation of the Secretary of National Defense, may modify the PROGRAMS FROM TIME TO TIME.

SECTION 14. Section 16 of the same Act is hereby amended to read as follows:

SECTION 15. Annual Reports -x x x

(A) THE SECRETARY OF NATIONAL DEFENSE SHALL SUBMIT TO THE PRESIDENT AND CONGRESS ANNUAL REPORTS ON:

(1) THE PROGRESS OF THE IMPLEMENTATION OF THE AFP MODERNIZATION ACT TO INCLUDE THE PROGRAMS THUS FAR COMPLETED AND ON- GOING; AND

(2) THE STATUS OF THE AFP MODERNIZATION ACT TRUST FUND AS PROVIDED UNDER SECTION 9 HEREOF,

SECTION 16. There will be a Section 15 which will be inserted in the same Act which will read as follows:

"SEC. 15. IMPLEMENTING GUIDELINES, RULES AND REGULATIONS -WITHIN NINETY (90) DAYS FROM THE APPROVAL OF THIS ACT, THE DND, IN CONSULTATION WITH THE AFP AND OTHER CONCERNED DEPARTMENTS, SHALL PREPARE AND FILE THE NECESSARY IMPLEMENTING GUIDELINES, RULES AND REGULATIONS IN ORDER TO CARRY OUT THE PROVISIONS OF THIS ACT."

SECTION 17. Sections 17, 18 and 19 of the same Act are hereby amended to read as follows:

SEC. 18. *Separability Clause.* -If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 19. *Repealing Clause.* -All laws, executive orders, rules and regulations inconsistent with or contrary to this Act, are hereby deemed accordingly repealed or amended.

SEC. 20. *Effectivity Clause.* -This Act shall take effect after fifteen (15) days from its publication in at least two (2) newspapers of national circulation."

Approved.

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