

THIRTEENTH CONGRESS
REPUBLIC OF THE PHILIPPINES

Second Regular Session

HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 4798



Introduced by

Representatives Lorenzo R. Tañada III, Ronaldo B. Zamora, Del R. de Guzman,
Proceso J. Alcala, Rafel P. Nantes, Danilo E. Suarez, Emmanuel Joel J. Villanueva,
Mario "Mayong" Joyo Aguja

EXPLANATORY NOTE

The Philippine economic development and trajectory continues to be a paradox. Compared to its Asian neighbors, it is endowed by a lot of natural resources, a highly literate population and creative people.

It was one of the first to accede to the GATT-WTO Uruguay Round Agreement in 1994 and quickly lowered its tariff way below its WTO commitments. The Philippine market is now known to be one of the most open in the world, outranking Thailand and Indonesia in the Kearney Globalization Index of 2004. The rationale behind the drive for greater openness is the belief that doing so will pave the way for quicker economic development.

Yet, looking around, the Philippines is a laggard in terms of economic growth. Investments are much less than what our neighbors generate. Vietnam, which has yet to join the WTO, is actually attracting more foreign investments and has dramatically reduced poverty over the last decade.

Apart from our commitments to the World Trade Organization, greater opening of our markets has happened with our membership in APEC, AFTA and some 47 bilateral and investment agreements that government has entered into.

At the moment, a bilateral trade agreement with Japan is in the offing while that of the US appears to be in the drawing board. The combined impact of all these agreements is yet to be appreciated as there is no singular entity principally responsible for monitoring and more importantly maintaining a cohesive and coherent trade policy vis-a-vis our national interest.

The reality is, there is a tug of war between the Department of Trade and Industry (DTI) and the Department of Foreign Affairs when it comes to bilateral and multilateral trade negotiations. Of the 25 Foreign Trade Service Corps that we have, only three are actually involved in trade negotiations and policy studies. These are those based in Washington, Geneva and Brussels.

The Secretary of the Department of Trade and Industry (DTI) is the lead negotiator even if offers on the table already involve agriculture. It would not really pose as a problem if the DTI has a clear appreciation of what happens in agriculture. However, this does not seem so as we saw the passive acceptance of the DTI of the imposition of the 20 percent bound tariff rate on fisheries products, much to the dismay of organized fisherfolks. Similarly, allowing more rice imports from Thailand in exchange for the retention of higher tariffs on imported sugar was the work of the DTI, with very little consultation from the Department of Agriculture. On the initiative of the Executive, Congress has actually enacted a general safeguard measures law that is actually over-compliant with WTO rules.

The litany can go on and on.

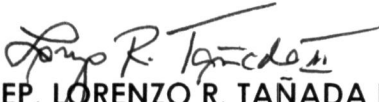
Suffice it to say that that we cannot continue to be a loser in this globalization war. There have been many opportunities that our involvement in multilateral and regional trade and investments formation could have been taken advantage of, but were squandered. And the gamut of bilateral trade and investments agreements seem to be like cobwebs that need to be sorted out.

To establish coherence, greater predictability, accountability and transparency in trade and investment policy making, the creation of a Philippine Trade Representative Office is being proposed. It shall be under the Office of the President. As the country's chief trade negotiator, the Philippine Trade Representative shall coordinate all trade-related policies, serve as the country's lead negotiator in international trade matters, and ensure the development, implementation and administration of Philippine trade policy. A guiding principle by which this Office shall operate is that of meaningful consultation with affected sectors, be it industry or agriculture and their representation in trade negotiations.

There is no doubt that trade and investments, when conducted within the framework of a clear development agenda, can contribute to employment creation and poverty alleviation. Other countries have done it without changing their Constitution just to accommodate the demands of foreigners for greater openness. That we forego ownership requirements of companies in key sectors of the economy and give them the right to own land goes beyond trade agreements and is practically giving up our patrimony. Indeed, we have yet to explore what it is like to be aggressive in our trade and investment negotiating strategy.

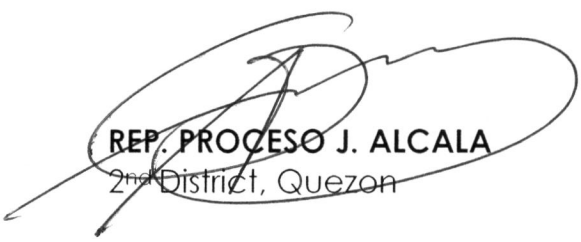
Time is not on our side as the globalization train will not stop on its tracks. Even if the Hong Kong WTO Ministerial in December turns out like another Cancun, there are regional and bilateral agreements that are in the works. Perhaps the creation of a Philippine Trade Representative Office should have been done a long time ago. But it is never too late to do it now.

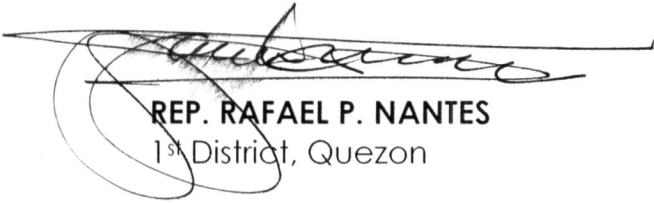
Immediate passage of this bill is therefore earnestly sought.


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4th District, Quezon

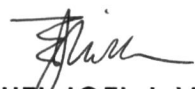

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AN ACT
CREATING THE PHILIPPINE TRADE REPRESENTATIVE OFFICE,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

Section 1. Title. This Act shall be known as the "Charter of the Philippine Trade Representative Office."

Section 2. Declaration of Policy. It is hereby declared the policy of the State to pursue a trade policy that serves the general welfare, promote and support domestic industry, agriculture and industry. For this purpose, the State shall ensure that a single office shall, with competence and accountability, coordinate all government policies, positions and measures with respect to international trade relations and negotiations.

Section 3. Creation. There is hereby created within the Office of the President the Philippine Trade Representative Office, hereinafter referred to as the "Trade Office."

The Trade Office shall be headed by the Philippine Trade Representative who shall be appointed by the President with the confirmation of the Commission on Appointments.

The Philippine Trade Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

Further, the Trade Office shall have three (3) Deputy Philippine Trade Representatives who shall be appointed by the President with the confirmation of the Commission on Appointments. Each Deputy Philippine Trade

Representative shall hold office at the pleasure of the President and shall have the rank of Ambassador.

The Philippine Trade Representative and the Deputies shall have a term of six years each – a Deputy being replaced every two years – except in the first Trade Office. The first set of Philippine Trade Office Deputies shall have six, four and two-year terms respectively. They can be re-appointed for no more than a second term.

Section 4. Limitation on Appointments. Persons who have directly represented, aided or advised a foreign entity in any trade negotiation or trade dispute with the Philippines, as well as those who have been commissioned to conduct studies on the Philippine market funded by foreign entities, may not be appointed as Philippine Trade Representative or as a Deputy Philippine Trade Representative.

Section 5. Functions and Responsibilities of the Philippine Trade Representative. The Philippine Trade Representative shall:

- a) Principally strategize the Philippine trade position based on a national development agenda that is a product of regular and meaningful consultation with industrial and agricultural producers as well as exporters.
- b) Be responsible for developing and coordinating, monitoring and ensuring the implementation of Philippine international trade policy, including trade in services, commodity and direct investment matters, and to the extent they are related to international trade policy, trade in services, commodity and direct investment matters.
- c) Be principally responsible for asserting and protecting the rights and interest of the Philippines under all bilateral, regional and multilateral trade and commodity agreements.
- d) Serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the Philippine Government on international trade.
- e) Act as the chief spokesperson for the President on international trade agreements and trade policy.
- f) Be responsible for the conduct of and shall be the chief representative of the Philippines for international trade negotiations, including, but not limited to, all negotiations on any matter considered under the auspices of the World Trade Organization, regional, bilateral commodity and direct investment negotiations, in which the Philippine participates.
- g) Report directly to the President and Congress regarding the implementation, operation and effectiveness of any trade agreement entered into.
- h) Issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions including, but not limited to, any matter considered under

auspices of the World Trade Organization, to the extent necessary to assure the coordination of international trade policy and its consistency with any other law.

- i) Coordinate quick and decisive inter-agency response to specific cases of unfair trade practices and import surge.
- j) Advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs.
- k) Be chairperson of the inter-agency committee on Trade-Related Investment Matters (TRIMS).
- l) Be responsible for such other functions as the President may direct.

Section 6. Ex-officio positions and functions of the Philippine Trade Representative. The Philippine Trade Representative shall:

- a) be the senior representative on any body that the President may establish for the purpose of providing to the President advise on overall economic policies in which international trade matters predominate; and
- b) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

Section 7. Authorities of the Philippine Trade Representative. The Philippine Trade Representative may

- a) delegate any of his functions, powers and duties to officers and employees of the Trade Office as he may designate; and
- b) authorize such successive re-delegations of functions, powers and duties to officers and employees of the Office as he may deem appropriate.

Section 8. Functions of Deputy Philippine Trade Representatives. Each Deputy Philippine Trade Representative shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the Philippine Trade Representative may direct.

Section 9. Inter-Agency and Private Sector Coordination. In carrying out his functions and responsibilities with respect to unfair trade practices and import surges, the Philippine Trade Representative shall:

- a) create agriculture and industry desks;
- b) coordinate the use of inter-agency resources to specific unfair trade practice cases;
- c) identify and refer to the appropriate department or agency of the national government for consideration with respect to action, each act, policy or practice referred to in the required report or otherwise known to the

Philippine Trade Representative on the basis of other available information that may be an unfair trade practice that either:

- i. is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on Philippine commerce, or
 - ii. has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws.
- d) identify on a biennial basis, those Philippine government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under Philippine law.

For purposes of carrying out the above functions, the Philippine Trade Representative shall be assisted by Philippine local industrial and agricultural producers and exporters and an inter-agency unfair trade practices and import surge advisory committee composed of the Philippine Trade Representative, who shall chair the committee and senior representatives of the following agencies appointed by the respective heads of these agencies:

- a) the National Economic Development Authority
- b) the Department of Trade and Industry
- c) the Department of Agriculture
- d) the Department of Finance
- e) Bureau of Customs
- f) Tariff Commission; and
- g) the Administrator of the Export Processing Zone Authority

The Philippine Trade Representative may for the purpose of carrying out his functions in this section:

- (1) subject to the civil service and classification laws, select, appoint, employ and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties.
- (2) employ experts and consultants in accordance with laws and compensate individuals so employed for each day.
- (3) promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested in him;
- (4) utilize with their consent, the services, personnel and facilities of other national agencies;
- (5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Philippine Trade Representative may deem appropriate with any agency or instrumentality of the Philippine government or with any public or private person, firm, association, corporation or institution.
- (6) accept voluntary and uncompensated services, notwithstanding the provisions of the Civil Service Code;
- (7) adopt an official seal, which shall be judicially noticed.

The Philippine Trade Representative shall, to the extent necessary for the proper administration and execution of the trade agreements programs of the Philippines, draw upon the resources of, and consult with national agencies in connection with the performance of his functions.

Section 10. Transfer of functions. The Foreign Trade Service Corps Coordinating Office, the Bureau of Export Trade Promotion and the Bureau of International Trade Relations under the Department of Trade and Industry as well as Bureaus under both the Department of Agriculture and the Department of Foreign Affairs that are involved in trade policy are hereby transferred to the Office of the Philippine Trade Representative.

The rules and regulations for the implementation of the transfer of the above agencies shall be promulgated jointly by the Office and the Department of Trade and Industry.

Section 11. Information and advice from private sector. The Philippine Trade Representative shall seek information and advice from representatives of the private sector and non-government organizations working on trade policy with respect to:

- (a) negotiating objectives and bargaining positions before entering into a trade agreement
- (b) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the Philippines is a party
- (c) other matters arising in connection with the development, implementation and administration of the trade policy of the Philippines

The Philippine Trade Representative shall consult with representatives of the private sector and non-government organizations involved in trade policy studies on the overall current trade policy of the Philippines. The consultations shall include, but are not limited to, the following:

- a. The principal multilateral, regional and bilateral trade negotiating objectives and the progress being made toward their achievement;
- b. The implementation, operation and effectiveness of recently concluded multilateral and bilateral agreements and resolution of trade disputes;
- c. The actions taken pursuant to trade remedy laws of the Philippines and the effectiveness of such actions in achieving trade policy objectives; and
- d. Important developments in other areas of trade which there must be developed a proper policy response

Section 12. Advisory Committee for Trade Policy and Negotiations. There is hereby created an Advisory Committee for Trade Policy and Negotiations (hereinafter referred to as "Committee")

Section 13. Members of the Advisory Committee for Trade Policy and Negotiations. The Committee shall consist of not more than 40 members from relevant national government agencies, both Houses of Congress and representatives of industry, agriculture, labor, small business, service industries, retailers and consumer interest. The committee shall be broadly representative

of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. The Chairman of the Committee shall be elected by the Committee from among its members. Members of the Committee shall be appointed by the Philippine Trade Representative alone or in conjunction with other Cabinet officers.

Section 14. Duties, Functions and Administrative Provisions. The Committee's duties and functions are as follows:

- a. The Committee is to provide the Philippine Trade Representative overall policy advice on trade matters;
- b. The Committee will draw on the expertise and knowledge of its members and on such data and information as is provided it by the Office of the Philippine Trade Representative;
- c. The Committee shall, prior to any trade negotiation, be an active participant in the development of the negotiation objectives and bargaining positions of the country and at the conclusion of negotiations for each trade agreement entered into, provide a report to the President, Congress. The report of the Committee shall include an assessment and evaluation of whether and to what extent the agreement promotes the economic interest of the Philippines and achieves the applicable overall and principal negotiating objectives set forth;
- d. The Committee shall report to the Philippine Trade Representative;
- e. The Philippine Trade Representative, will have responsibility for prior approval of the agendas for all Committee meetings;
- f. The Philippine Trade Representative, in any trade negotiation shall allow private sector representative/s endorsed by the Committee to accompany the Philippine delegation in an observer capacity. All expenses incurred by the private sector representative/s shall be borne by the same and/or his/her organization;
- g. The Office of the Philippine Trade Representative will provide clerical and other necessary staff support for the Committee;
- h. The Committee will have an Executive Director who shall be a full-time government employee appointed by the Philippine Trade Representative.
- i. Members of the committee shall serve without either compensation or reimbursement of expenses.
- j. The Committee will meet as needed at the call of the Committee Chairman or the Philippine Trade Representative depending on various factors such as the level of activity of trade negotiations.

Section 15. Appropriations. The sum of Twenty Million Pesos (Php 20,000,000) is hereby authorized to be appropriated to the Office for the purposes of carrying out its functions for the fiscal year beginning January 1, 2006.

For fiscal year beginning January 2007 and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Salary Standardization Act.

Section 16. Implementing Rules and Regulations. Within 60 days of the effectivity of this act, the President shall appoint the Philippine Trade Representative, who shall in consultation with the Departments of Trade and Industry, Agriculture,

Foreign Affairs and the National Economic Development Authority, issue the necessary rules and regulations to implement the provisions of this act.

Section 17. Separability Clause. If any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions not affected thereby shall continue to be in full force and effect.