

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

FIFTEENTH CONGRESS  
First Regular Session

HOUSE BILL NO. 1892



Introduced by Rep. KARLO A. B. NOGRALES

**EXPLANATORY NOTE**

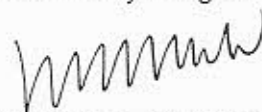
Globalization has re-shaped the world economy in a manner that is so expansive rendering national boundaries useless. It is the objective of each nation to penetrate other countries' markets and optimize the benefits from world trade. The Philippines is laggard in terms of economic growth. Investments are much less than what our neighbors generate.

Over the years, the Philippines has entered into 37 Bilateral Investment Promotion and Protection Agreements, 38 Bilateral Agreements and other multilateral and regional trade agreements while other agreements are still in the process of negotiations. The combined impact of all 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-à-vis our national interest. With the potential increase in the number of trade negotiations, it is imperative that the Philippines is equipped with the necessary resources and capability to engage in all trade discussions. More importantly, it is necessary that there is one institution that effectively formulates and carries out the country's trade policies in order for us to efficiently promote our own products and protect our own economy and domestic market from unfair trade practices. Our country cannot afford to have loose, divergent and incoherent policy in addressing the demands of international trade.

To establish coherence, greater predictability, accountability and transparency in trade and investment policy making, it is imperative to establish a specialized and dedicated agency and officers that will:

- Formulate domestic and national priorities
- Come up with final trade positions
- Be responsible for all trade negotiations
- Coordinate with other branches of government in order to come up with a whole, cohesive cross-industry trade strategy in accordance to our country's development goals, and
- Authoritatively represent the country in all agreements it wish to enter.

Immediate passage of this bill is therefore earnestly sought.

  
KARLO A. B. NOGRALES

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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.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to pursue a trade policy that serves the general welfare, creates jobs, ensures food security and rural and industrial development, among others and utilizes all forms and arrangements of exchange on the basis of fair trade. Market access in itself is not the end goal of trade negotiations.

It is also the declared policy of the State to ensure the right of the people and their organizations to be duly informed on matters of public concern and the right to effectively and reasonably participate in economic decision making.

Congress has the power to regulate commerce, including commerce with foreign nations, and has the power to re-organize the bureaucracy in order to make it more responsive to the needs of all the stakeholders in the Philippine economy and the exigencies of international economic relations. Any international economic, commercial, or trade agreement entered into by the Government constitutes regulation of commerce and will affect the different stakeholders in our economy. Hence, it is essential that any

agreement is harmonized with our existing domestic commercial laws and our constitution.

Moreover, Congress, as one of the three (3) political branches of the Government, has power over foreign relations, especially international economic relations.

For this purpose, and pursuant to the power of Congress to regulate commerce, the State shall ensure that a single office shall, with competence and accountability, direct, formulate, and coordinate government agencies towards formulating cohesive policies, positions and measures, and conduct regular stakeholders consultations with respect to international trade and investment relations and negotiations.

*SEC. 3. Definition of Terms. –*

a) "Ambassador" refers to a diplomatic official accredited to a foreign sovereign or government, or to an international organization, to serve as the official representative of his or her own country. In everyday usage it applies to the ranking plenipotentiary minister stationed in a foreign capital. The host country typically allows the ambassador control of specific territory called an embassy, whose territory, staff, and even vehicles are generally afforded diplomatic immunity from most laws of the host country;

b) "Civil Society" refers to the totality of voluntary civic and social organizations and institutions that form the basis of a functioning society as opposed to the formal institutions and structures of a state;

c) "Commerce" refers to the entire range of activities connected with the production, manufacturing, accumulation, gathering, mining, raising, harvesting, exchange or buying and selling of something of economic value such as agricultural products, minerals, goods, services, information, debt instruments, shares of stock or equity, derivatives, and money. It also includes capital formation, either through debt or equity; savings; and investments. Finally, it likewise includes the obligations, rights, and duties of all economic entities such as natural persons, corporations, partnerships, and governmental entities;

d) "Consultation mechanism" refers to the means by which stakeholders and sectors could participate effectively and meaningfully in the governmental process of

drawing up our international trade policy, and in coming up with all other policies and rules affecting all aspects of international trade;

e) "Fair trade" refers to a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the marginalized producers and workers;

f) "Investment" refers to the act of putting money to a business, either by directly buying or leasing assets, hiring personnel, and entering into a whole gamut of contracts needed to run an on going concern, or by buying equity in a business – typically in the form of shares of stock;

g) "Legal" refers to the characterization of an act that is not contrary to Philippine laws, including international commercial agreements to which the Philippines is a party, and the accession of the parties to a trade and/or investment agreement;

h) "Multisectoral" refers to a grouping of different sectors of the economy;

i) "Non-Government organizations" refer to non-stock, non-profit corporations organized under the laws of the Republic of the Philippines doing charitable, educational, religious, social, economic, and other not-for-profit endeavors;

j) "Private sector" refers to that sector of the economy that is owned by or is composed of private individuals, including natural persons doing business in their personal capacities;

k) "Research" refers to the study of the potential or actual economic implications of a proposed or existing trade agreement and the validation of its findings among the stakeholders;

l) Sectors refer to the different economic or commercial groups composed of members with substantially common commercial interest, including business, labor, peasants, farmers, fisherfolk, consumers, private sector, public sector, service sector, and manufacturing sector;

m) "Stakeholders" refer to persons or groups of persons with legitimate interest in commerce or whose economic well-being will be affected by any government policy or law affecting commerce – either as factors in the production, sale, or distribution of goods and services, or as consumers or beneficiaries thereof;

n) "Trade" refers to the voluntary exchange of goods, services and all things of economic value, whether or not across national borders;

o) "Trade and investment agreement or International trade and investment agreement" refers to an accord whereby two or more countries bind themselves to a set of rules that govern the commercial and investment transactions of persons originating from any of the parties to the agreement. When it is just between two countries, it is called a *Bilateral Agreement*. On the other hand, if it involves more than two countries, then it is called a *Multilateral Agreement*. *Regional Agreements* are those among countries within the same geographical area as contemplated by the agreement. *Plurilateral Agreements* are specialized agreements included in a multilateral agreement, and where the parties have the option of acceding; and

p) "Trade dispute" refers to a disagreement between two or more countries to a trade agreement that arises when at least one country adopts a trade policy measure or takes some action that one or more fellow members consider to be a breach of the agreement, or a failure to live up to obligations under the agreement.

SEC. 4. *Creation*. – There is hereby created the Philippine Trade Representative Office, hereinafter referred to as the "Trade Office", that shall be attached to the Office of the President.

The Trade Office shall be headed by the Philippine Trade Representative who shall be appointed by the President and confirmed by the Commission on Appointments. He/she shall hold a Cabinet rank with a fixed term of six (6) years.

Further, the Trade Office shall have three (3) Deputy Philippine Trade Representatives who shall be appointed by the President upon the endorsement of various stakeholders and shall have the rank of Senior Undersecretary.

The Deputies shall have a term of six (6) years each and can be re-appointed for no more than a second term. Of those first appointed under this Act, one deputy shall serve for six (6) years, another deputy for four (4) years and another deputy for two (2) years.

SEC. 5. *Qualifications and Limitations on Appointments*. –

a) *Qualifications*. – The Philippine Trade Representative and Deputy Trade Representatives must be natural-born citizens of the Philippines, and must be at least

forty (40) and thirty-five (35) years of age, respectively, of good moral character, unquestionable integrity, and known probity and patriotism, and should possess the academic training, experience, and competence in business, economics, international trade law and policy or trade negotiations.

The Philippine Trade Representative and Deputy Trade Representatives shall not, during their tenure in office, engage in the practice of any profession, or intervene directly or indirectly in the management or control of any private enterprise which may, in any way, be affected by the functions of their office, nor shall they be financially interested, whether directly or indirectly, in any contract with the Government, or in any franchise, or special privilege granted by the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflicts of interest in the conduct of their office.

b) *Limitations on Appointments; Disqualifications.* – No person shall be appointed Philippine Trade Representative or Deputy Trade Representative if he/she has directly represented, aided, or advised a foreign entity in any trade and/or investment negotiation or trade dispute against the Philippines.

Likewise, the Philippine Trade Representative, Deputy Trade Representatives, and all members of the research and legal staff of the Office of the Philippine Trade Representative shall not be allowed to be employed, commissioned, or retained by foreign entities, or to do any kind of consultancy or related work for foreign clients on trade and investment issues within two (2) years after the expiration or termination of their service with the Office of the Philippine Trade Representative. They shall likewise maintain at all times the confidentiality of all matters that they have handled during their service with the Office of the Philippine Trade Representative.

SEC. 6. *Functions and Responsibilities of the Philippine Trade Representative Office.* – The Philippine Trade Representative Office shall:

a) Negotiate trade and investment agreements on the basis of the Philippine Constitution and other laws;

b) Coordinate with different line agencies of government in formulating harmonized and coherent Philippine trade and investments policies based on a national

development agenda that is a product of regular and meaningful consultation with stakeholders ;

c) Advise the President and Congress on international trade and investments policies and their implications on the domestic economy and the impact of domestic policies on international trade and investments commitments.;

d) Report to Congress and to the Multi-Sectoral Advisory Committee as herein created any intention to negotiate any economic treaty, be it bilateral, regional or multilateral. At the minimum, the report shall contain the subject matter for negotiations and the general objectives of the Government. The Office shall update Congress and the Multi-Sectoral Advisory Committee on the negotiations, including the offers and counter-offers of all the parties. The Office shall also notify Congress and the Multi-Sectoral Advisory Committee of any tentative or final agreement of the parties;

e) Coordinate with departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade and investments functions including, but not limited to the World Trade Organization, regional, bilateral and plurilateral negotiations to the extent necessary to assure the coordination of international trade and investment policy and its consistency with any other law;

f) Conduct research and legal studies related to trade and investments that will enhance trade policy formulation;

g) Obtain, collate and maintain a database that shall include, but not be limited to, trade and investments statistics, trade and investment -related laws, policies, trade and investments agreements, and initiatives which have implications on the development of the Philippine negotiating position in trade and investment agreements, and which shall be accessible to the stakeholders;

h) Conduct or facilitate the conduct of trainings and courses for the benefit of the technical staff of the Office and other government personnel directly or indirectly engaged in trade and investment policy work in order to build, improve and enhance their capacity and competence in trade and investments negotiations;

i) Report directly to the President, Congress and the Multi-Sectoral Advisory Committee regarding the implementation, operation and effectiveness of any trade and

investments agreement entered into including the status of on-going trade and investment negotiations, in which the Philippines participates;

j) Undertake consultations with stakeholders in all aspects of trade policy formulation and negotiation. Stakeholders must also be directly involved in formulating positions related to trade and investment negotiations in line with the national development agenda;

k) Subject to Civil Service Commission rules, elect, appoint, employ and fix the compensation in accordance with the existing compensation laws of such officers and employees as are necessary and prescribe their authority and duties;

l) Promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested herein;

m) 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;

n) Provide the necessary staff support for the Multi-Sectoral and Sub-sectoral Advisory Committee and the Inter-Agency Coordinating Committee; and

o) Adopt an official seal.

*SEC. 7. Functions of the Philippine Trade Representative.* – The Philippine Trade Representative shall:

a) Serve as the chief trade negotiator of the Philippines in international trade and investment agreements, including, but not limited to, the World Trade Organization, regional, bilateral and plurilateral negotiations, in which the Philippines participates, and shall be responsible for the conduct of such;

b) Head the Philippine Trade Representative Office and exercise control and supervision over all its functions and activities and including its organization;

c) Participate in economic summits and other international meetings at which international trade and investment are major topics;

d) Chair the Inter-agency Coordinating Committee on international trade and investments ;

e) Co-chair the multisectoral advisory committee in their regular and special meetings; and

f) Report at least twice a year and as needed to Congress and Multi-Sectoral Advisory Committee on the developments of any international trade and investments negotiations and/or agreements.

SEC. 8. *Functions and Responsibilities of Deputy Trade Representatives.* – The Deputy Trade Representatives shall:

- a) Lead the negotiations for their respective sectors and/or areas of concern;
- b) Convene and chair the Sub-Sectoral Advisory Committees and the Inter-Agency Coordinating Sub-Committee for their respective sectors and/or areas of concern;
- c) Ensure proper coordination among the various government agencies involved in their specific sectors of concern, and harmonize conflicting negotiating positions;
- d) Prepare sector-specific proposals and negotiating positions and strategies; and
- e) Perform all other functions as may be delegated by the Philippine Trade Representative, or as may be required by the nature or exigencies of their foregoing functions and responsibilities.

SEC. 9. *Inter-Agency Coordinating Committee and Sub-Committees.* – In connection with the performance of his/her functions, the Philippine Trade Representative shall, to the extent necessary for the proper administration and execution of the trade and investment agreements of the Philippines, draw upon the expertise of, and consult with national agencies.

The Philippine Trade Representative shall consult with concerned agencies and any other agency on trade and investment policy issues, without prejudice to the exercise by the Bangko Sentral ng Pilipinas of its authority as an independent central monetary authority under the Constitution and Republic Act No. 7653 or the New Central Bank Act. All agencies consulted by the Philippine Trade Representative shall participate actively, cooperate fully, and promptly provide to the Philippine Trade Representative all documents and information requested.

Further, there is hereby created Inter-Agency Sub-Committees to provide inputs and support to the Deputy Trade Representatives.

SEC. 10. *The Multi-sectoral Advisory Committee.* – The Philippine Trade Representative shall seek information and advice from representatives of the private sector, non-government organizations and members of Congress working on trade and investment policy based on a national development agenda aimed at balancing the interests of various stakeholders with respect to:

a) negotiating objectives and bargaining positions before entering into a trade and investment agreement;

b) the operation, implementation, and monitoring of any trade and investment agreement once entered into ;

c) trade remedies, dispute settlements, non-compliance and/or violations to any trade and investment agreement; and

d) other matters arising in connection with the development, implementation and administration of the trade and investment policy.

On the other hand, the Multi-Sectoral Advisory Committee shall:

a) provide the Philippine Trade Representative overall policy advice on trade matters;

b) prior to any trade negotiation, be an active participant in the development of the negotiation objectives and bargaining positions of the country;

c) at the conclusion of negotiations for each trade agreement entered into, provide a report to the President and 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; and

d) be allowed to accompany the Philippine delegation in trade and investment negotiation missions in an observer capacity.

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.

Further, there is hereby created Sub-Sectoral Advisory Committees, to be defined by the Philippine Trade Representative for trade and investment policy formulation and negotiations. These Committees 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 and shall consist of representatives of industry, academe, agriculture, fisheries, labor, small business, service industries, retailers, consumer interest and other stakeholder groups. Members from both Houses of Congress who are Chairs and Vice-Chairs of the relevant Committees in Congress shall have the option to join the Sub-Sectoral Advisory Committees during the conduct of consultations and in the course of the Trade Representative's reportorial duties.

Members of the Committee and Sub-committees shall be appointed by the Philippine Trade Representative upon the endorsement of various non-government organizations and stakeholders. Members of the committee shall serve without either compensation or reimbursement of expenses.

The Chairman of the Committee and Sub-Committees shall be elected by its members.

SEC. 11. *Joint Congressional Oversight Committee on Trade and Investment Matters.* – There shall be a Joint Congressional Oversight Committee on Trade and Investment Matters to which the Philippine Trade Representative Office shall seek *a priori* negotiating mandate, parameters and authority with respect to trade and investment agreements. The oversight committee shall be composed of the Chairpersons of the Committees on Trade and Industry, Agriculture, Foreign Affairs, Economic Affairs, Labor, Environment and Natural Resources and Special Committee on Globalization of both Houses of Congress.

The Oversight Committee shall conduct a periodic review and evaluation of the performance of the Philippine Trade Representative Office, including its officials, every three (3) years. An independent panel composed of experts to be appointed by the Committee shall review the activities and performance of the Philippine Trade Representative Office and shall make recommendations, based on its findings, to the Congressional Oversight Committee. The independent panel of evaluators shall likewise conduct consultations with stakeholders in the conduct of the review

SEC. 12. *Trade Research Services, Data Collection, Analysis and Dissemination.* – The Office shall improve and strengthen its capacity on research, data

collection, analysis, and dissemination of trade and investments statistics, laws and policies, agreements and other related information.

The trade and investment research under the Office of the Philippine Trade Representative shall have the following specific functions and responsibilities:

- a) Generate, maintain, and update records/files of comprehensive national and international trade statistic, tariff and non-tariff measures, and investment-related data;
- b) Conduct sectoral and macrolevel impact assessment and/or potential effects of the country's trade negotiating positions or an eventual trade agreement and validate such studies;
- c) Provide the general public access to trade data and information and other relevant documents through online databases, journals, publications, etc.
- d) Collaborate with government and non-government research institutions in research concerning trade and investments policies and programs in relation to the national development program;
- e) Tap the foreign trade service corps to get market intelligence information with regard to commercial, industrial and general economic conditions, as well as non-economic conditions, affecting Philippine products both in the export and domestic markets; and
- f) Perform other functions as may be provided by law or assigned by the Trade Representative or Deputy Trade Representative.

SEC. 13. *Legal Services and Programme.* – The Office shall have a Legal Services arm with the following functions:

- a) Provide legal advice to the Office of the Philippine Trade Representative, including legal advice on trade and investment negotiations;
- b) Interpret laws and rules affecting the operation of the Office;
- c) Prepare contracts and instruments to which the Office is a party, and interpret provisions of contracts covering work performed for the Office by private entities;
- d) Assist in the promulgation of rules governing the activities of the Office;
- e) Prepare comments on proposed legislation concerning the Office;

f) Assist the Solicitor General in suits involving the Office or its officers or employees, or act as their principal counsel in all actions taken in their official capacity before judicial or administrative bodies;

g) Assist the Office in ensuring compliance by the Republic of the Philippines with its obligations in the World Trade Organization agreements, other multilateral trade, regional, plurilateral and bilateral trade and investment agreements;

h) Represent the Republic of the Philippines in any dispute settlement before the World Trade Organization, other multilateral trade agreements, bilateral trade agreements, or in any other suit involving international trade; and

i) Perform such other functions as may be directed by the Philippine Trade Representative Office.

SEC. 14. *Penalties for Withholding Information, Non-Consultation.* – The failure of the Philippine Trade Representative or any other officer of the Office of the Philippine Trade Representative to provide information to Congress, as well as failure to hold meaningful consultations, as provided for under this Act, shall be punishable by imprisonment of not less than six (6) months to not more than six (6) years, and a fine of not more than P 50,000.

SEC. 15. *Transfer of Functions.* – The functions of the Bureau of International Trade Relations under the Department of Trade and Industry, Attaches and Permanent Mission to the WTO, ASEAN and UNIO, and the negotiating functions of the Tariff and Related Matters Committee (TRMC) are hereby transferred to the Office of the Philippine Trade Representative.

The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property, and personnel as may be necessary.

SEC. 16. *Transitory Provision.* – The Tariff and Related Matters Committee (TRMC) created by Sec. 6 of Executive Order No. 230, series of 1987, together with the Technical Committee on WTO Matters shall continue to function for six (6) months or until the Office of the Philippine Trade Representative is set up whichever comes earlier, after which they shall cease to function.

SEC. 17. *Implementing Rules and Regulations.* – Within ninety (90) 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.

SEC. 18. *Appropriations.* – The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the Bureau of International Trade Relations under the Department of Trade and Industry, attaches and permanent mission to the WTO, ASEAN and UNIO, the Tariff and Related Matters Committee, and other concerned agencies. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 19. *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.

SEC. 20. *Repealing Clause.* – Laws, rules and regulations and other issuances inconsistent with the provisions of this Act, including Sec. 6 of Executive Order 230 series of 1987 and relevant provisions of Executive Order No. 133 series of 1987 are deemed modified, revoked or repealed accordingly.

SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation or in the *Official Gazette*, whichever comes earlier.

Approved,