

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS

First Regular Session

House Bill No. **4030**

Introduced by HON. RODOLFO W. ANTONINO, PABLO JOHN F. GARCIA, MARK
LLANDRO L. MENDOZA AND WILFRIDO MARK M. ENVERGA

EXPLANATORY NOTE

The Philippines is committed to the maintenance and strengthening of internal and international security. As embodied in Article II Section 2 of the Constitution, "the State renounces war as an instrument of national policy and adopts the generally accepted principle of international law as part of the law of the land. It adheres to the policy of peace, equality, justice, freedom, cooperation and amity among nations."

In Section 8 of the same Article and consistent with national interest, it adopts and pursues a policy of freedom from nuclear weapons in its territory. This commitment is embodied in the Philippine support to UN Security Resolution 1540 dated 28 April 2004 which states that, "all member states shall take appropriate and effective action against any threat to international peace caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, and implement them fully in order to promote international security".

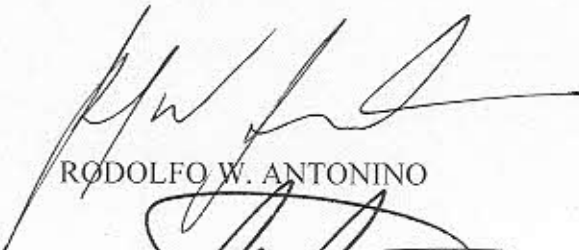
Countries in South East Asia do not possess nuclear weapons. For this reason, the possibility for enemies of the state to gain access to goods and materials that could be used in the production of weapons that can cause a high degree of destruction was considered remote as they require a high level of technological expertise. However, the continued growth being experienced by some countries in the wider Asia-Pacific regions have opened this possibility. As the US National Research Council has warned after 9/11, crude nuclear weapons could be fabricated without assistance of experts and as little as 25 kg of high enriched uranium (HEU) can produce a nuclear weapon. Considering the widespread distribution and use of HEU even for peaceful purposes, the serious risk faced by any country should it fall in the wrong hands pose great risk and danger.

The challenges facing the global security environment is real. When these so-called dual-use and strategic items fall in the hands of terrorists and other enemies of the state, it can undermine governments, destroy lives and properties and instill fear among the civilian populace. Even the United States was forced to readjust their views and acknowledge the extent of sophistication of

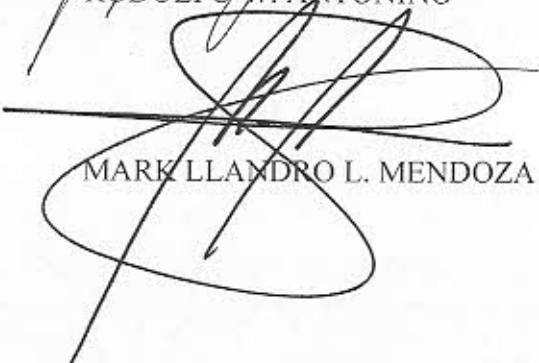
organizations and networks that now threatens the international community. The depth of the link that now connects South East Asian terrorists with their counterparts in and outside the region is truly impressive.

The present threats to global security is transnational, it exists across countries whether first world or developing, and these challenges are being carried out in every conceivable means possible. One such means is the transfer, diversion, importation, exportation, re-exportation, transit and transshipment of goods and services either in part or in whole. With inadequate security control and the absence of strong regulatory mechanism in the area of law enforcement, intelligence, police and military cooperation, proliferators are quick to see the cracks and often exploit them by using the country in the transfer of materials, men and money across borders, specifically in trade/export activities. Considering the eighteen thousand kilometers of shoreline where more than fifty per cent of the country are along the coast and almost all major cities are coastal, this could easily involve our country in terroristic acts and schemes.

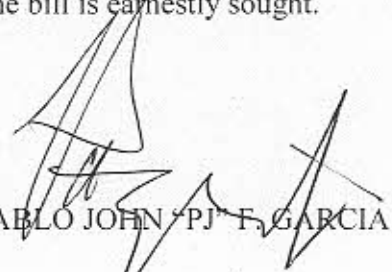
Advanced countries in Asia and the Pacific have been quick to put their own legislation against proliferation. The Philippines, however, has lagged behind in this aspect. This bill now intends to put in place a sound, legal, regulatory and organizational structure that will both address our need to pursue economic pursuits in the sphere of global trade while at the same time strengthen internal security. It hopes to put the country at par with other their Asean counterparts in the field of internal security and strategic trade management and at same time comply with international commitments. For these reasons, approval of the bill is earnestly sought.



RODOLFO W. ANTONINO



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WILFRIDO MARK M. ENVERGA

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Introduced by HON. RODOLFO W. ANTONINO, PABLO JOHN "PJ" F.
GARCIA, MARK LLLANDRO L. MENDOZA and WILFRIDO MARK M.
ENVERGA

AN ACT
REGULATING THE PROLIFERATION OF STRATEGIC AND DUAL-USE
GOODS AND SERVICES, PROVIDING PENALTIES FOR THEIR VIOLATION
AND FOR OTHER PURPOSES

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

1 TITLE 1 – GENERAL PROVISIONS
2

3 SECTION 1. **Short Title.** – This Act shall be known as the “ *Strategic Goods and*
4 *Services Management Act of 2010.*”

5 SEC. 2. **Declaration of Principles and Policies.** – It is the policy of the State to
6 be free from nuclear/radiological, chemical, biological weapons in its territory. This is
7 enshrined in the Philippine Constitution and embodied in the Philippine support to
8 United Nations Security Council Resolution Nos. 1540, 1673, 1810 and 1874 which call
9 on all member states to “take appropriate and effective action against any threat to
10 international peace caused by the proliferation of strategic goods and items and their
11 means of delivery, and to implement them fully in order to promote international
12 security”.

13 The State shall allow the exchange or trade of chemical, biological and
14 nuclear/radiological commodities for commercial, agricultural, research, pharmaceutical,

1 medical, military, and other purposes because it serves the economic interest of the
2 Philippines. However, the State must ensure that these economic trade exchanges are not
3 used to develop weapons that can cause large-scale destruction, do not contribute to the
4 build-up or enhancement of terroristic capabilities, nor shall they be diverted to support
5 such capabilities.

6 The State also recognizes the growing global concerns on the need to control
7 worldwide movement of a wide range of military and commercial goods, items,
8 equipment and technologies related to the build-up of weapons, arms and munitions by
9 enemies of the global community. As such, it shall establish and provide for an effective
10 national export, import, transit, transshipment and re-export control law, without having
11 to sacrifice national economic and trade interests.

12 SEC. 3. *Scope and Coverage.* – Subject to the provisions of existing treaties
13 which the Philippines is a signatory to, and to any contrary provision of law of
14 preferential application, this Act shall apply to: (1) any person, whether natural or
15 juridical, engaged in trade of strategic and dual-use goods, items, technologies,
16 equipment and services and operating within the territorial domain, interior waters,
17 maritime zone and airspace of the Philippines, including designated free trade zones; and
18 (2) individual persons who, although physically outside the territorial limits of the
19 Philippines, commit, conspire or plot to commit any of the crimes defined and punished
20 in this Act inside the territorial limits of the Philippines.

21 Without impeding the normal course of trade activities, provisions of this Act
22 shall involve only the regulation of import, export, re-export, transit and transshipment
23 of sensitive goods, services and technology that will, or may assist a program that may
24 have destabilizing potential to internal and international security. These goods, services

1 and technology refer to strategic goods and dual-use goods, items, technologies,
2 equipment and services herein defined as regulated items and listed under the National
3 Control List.

4 Sec. 4. – *The National Control List.* – It is hereby established the *National*
5 *Control List* which shall refer to a list of goods, items and technologies subject to
6 licensing under this Act. It shall be issued by the Strategic and Dual-Use Goods and
7 Items Control Council herein constituted and shall describe with specificity the items
8 subject to export, transshipment, import, transit and re-export control, reasons for their
9 control, and the import/export license requirements applicable to each item.

10 The Council shall publish the Control List and all the license requirements,
11 policies and procedures within six (6) months from the effectivity of this Act. It shall
12 contain a harmonized commodity classification designed for use by exporters, importers,
13 custom brokers, freight forwarders and other stakeholders when providing export/import
14 declaration to the Bureau of Customs.

15 To enable information on traded goods to be compared internationally, it
16 shall include goods listed under International Conventions as adopted by the Philippine
17 Government such as the Chemical Weapons Convention, Biological and Toxin
18 Weapons Convention, Nuclear Non-Proliferation Treaty, among others. The Council
19 shall, likewise, review the entire list at least one every two years, and shall revise or
20 update the Control List, as appropriate

21 SEC.5 *Definition of Terms.* – For purposes of this Act, the following terms
22 shall mean:

23 a. *Brokering Activities* refer to forwarding, servicing or financing export
24 transactions through intermediaries who negotiate commercial and

1 logistical arrangements to meet the requirements of buyers, sellers and
2 other relevant actors and facilitate the transfer of strategic and dual-use
3 items in exchange for a commission or other material reward, gain or
4 consideration.

5 b. *Conveyance* refers to any vessel, train, vehicle, aircraft or other modes of
6 transportation;

7 c. *Device* refers to any tangible medium wherein information, visual images,
8 sound or other data is, or recorded, stored, or embodied in any form so as to
9 be capable of being retrieved or produced with or without the aid of any
10 equipment;

11 d. *Document* refers to any records on paper, or in electronic form, kept on any
12 magnetic, optical, chemical or other medium; including photograph map,
13 plan, graph, picture or drawing or device;

14 e. *Dual-Use Goods and Items* refer to civilian or military goods or items
15 capable of being used for non-military purposes that, when put together or
16 assembled, may assist in the development, production, acquisition or
17 stockpiling of weapons capable of causing mass destruction;

18 f. *Export* refers to the shipment or transmission by any means of a strategic or
19 dual-use goods, items, and services from the territory of the Philippines to a
20 foreign country;

21 g. *Exporter* refers to any natural or juridical person who ships or transmits a
22 strategic or dual-use goods and items, and services from the territory of
23 the Philippines to a foreign country;

- 1 h. *Import* refers to the shipment or transmission by any means of strategic and
2 dual-use goods, items and services from a foreign country into the territory
3 of the Philippines;
- 4 i. *Importer* refers to any natural or juridical person who ships or transmits a
5 strategic or dual-use goods, items and services from a foreign country to
6 the territory of the Philippines.
- 7 j. *License or Permit* refers to a written authorization issued by the Government
8 for the import, export, re-export, transit or transshipment of any strategic or
9 dual-use goods, items and services into, out of, or through the territory of
10 the Philippines. It also includes the provision of services pertinent to the
11 trade of strategic and dual-use goods, technology and equipment;
- 12 k. *Military Goods or Munition Items* refer to goods, solely or predominantly
13 designed or modified for military purposes. It includes entire products as
14 well as specifically-designed parts, accessories, components and
15 technology such as firearms, warships, lasers designed for military
16 application, biological agents and sophisticated night-vision equipment;
- 17 l. *Premises* refer to any land, place or building, whether open or enclosed, and
18 whether built on or not, including any free trade zones within the territory
19 of the Philippines;
- 20 m. *Re-export or Re-transfer* refers to any shipment, transmission or release by
21 any means of any strategic or dual-use goods and items from one foreign
22 country to another. It may also include a transfer of an exported item to a
23 new end-user within the recipient country;

1 n. *Registration* refers to an application for registration to carry out an act such
2 as to arrange, negotiate or do any act to facilitate the arrangement or
3 negotiation of a contract for the acquisition or disposal of strategic or dual-
4 use goods and items, technology, equipment and services.

5 o. *Services* refer to, without limiting the generality of the expression, any
6 reference to doing anything, such as supplying or exporting goods that
7 confer a benefit on, grants a right or privilege to, provides a facility for, or
8 otherwise assists someone, including work of a professional nature, with or
9 without the supply or export of goods, or a contract, for and in relation to
10 the lending of money or other provision of financial assistance;

11 p. *Software* refers to a collection of one or more programs or micro programs
12 recorded, stored or embodied in a device;

13 q. *Strategic Goods and Items and Services* refer to any military or non-military
14 goods, services or technology that require special control in the interest of
15 national security and foreign policy. It includes chemical, biological,
16 radiological/nuclear goods and items that can be used in the development,
17 production, operation, use, maintenance, stockpiling, detection,
18 identification or dissemination of chemical, biological, radiological/nuclear
19 weapons, or their delivery system;

20 r. *Technology* refers to specific knowledge and information, including
21 information in such documents or software as specification, blueprints,
22 plans, manuals, models, diagrams, formulae, tables and design, that is
23 necessary for the development, production or use of any strategic or dual-
24 use goods, items and services;

1 s. *"Through bill of lading" or "Through air way bill"* refers to a bill of lading,
2 air waybill and manifest, respectively, for the consignment of dual-use
3 goods from a place outside the Philippines to a destination which is also
4 outside the Philippines, and without a consignee in the Philippines;

5 t. *Transit* refers to the import into, and subsequent export from, the territory of
6 the Philippines of a strategic or dual-use item that does not enter the
7 commerce of the Philippines but is consigned on a *"through bill lading"* or
8 *"through way bill"* from a location outside the territory of the Philippines
9 to another location outside the territory of the Philippines, such that the
10 item remains at all times in or on the vessel on which it is imported in the
11 Philippines;

12 u. *Transshipment* refers to the import into, and subsequent export from, the
13 territory of the Philippines, of a strategic or dual-use item that does not
14 enter the commerce of the Philippines but is consigned on a *"through bill*
15 *lading," a "through air way bill," or "through manifest"* from a location
16 outside the territory of the Philippines to another location outside the
17 territory of the Philippines, and such that the item is removed or is to be
18 removed from the vessel in which it was imported and either returned to the
19 same vessel, or transferred to another vessel before being exported,
20 whether it is to be transferred directly between such vessels or whether it is
21 to be landed in the Philippines after its importation, and stored, or
22 otherwise handled, pending export;

1 v. *Vessel* refers to any ship, aircraft, automobile, truck, train or other means of
2 transporting items imported into or exported from the territory of the
3 Philippines;

4 w. *Weapons of Mass Destruction or "WMD"* refer to weapons that are
5 capable of a high order of destruction and/or being used in such a manner
6 as to create large number of casualties and significant damage to properties
7 during a single event or incident. It can be high explosives or
8 nuclear/radiological, biological and chemical weapons;

9 x. *Weapons of Mass Destruction Program* refers to a plan or program for the
10 development, production, acquisition, or stockpiling of
11 nuclear/radiological, biological and chemical weapons, or missiles
12 capable of delivering such weapons.

13 TITLE II - IMPLEMENTING AUTHORITIES

14 SEC. 6. *Strategic Goods and Services Management Council*. – There shall be
15 created a **Strategic Goods and Services Management Council**, hereinafter referred to
16 as the "Council" to serve as the governing and policy-making body for the formulation,
17 development, implementation, coordination, monitoring and evaluation of policies,
18 programs, plans and activities relative to the establishment and institutionalization of the
19 strategic and dual-use goods control system.

20 The membership of the Council shall be composed of the representatives of the
21 following agencies:

- 22 a. Special Envoy of the Office of Special Envoy of Transnational Crime
23 (OSETC), Office of the President, which coordinates, integrates and
24 evaluates the efforts of law enforcement and other government agencies

involved in the campaign against transnational crime, and which sets policy directions and program design standards on all matters regarding transnational crime.

- b. Department of Trade and Industry (DTI) as represented by the Bureau of Import Services, which facilitates imports, administer import regulation on selected items, and monitor the importation of liberalized and sensitive items.
- c. Department of Environment and Natural Resources (DENR) as represented by the Environmental Management Bureau, which implements rules and regulations relating to environmental management, pollution prevention and control, including the licensing and regulation, as provided by law, where applicable, of all natural resources; the regulation and monitoring of service contractors, licensees, lessees, and permittees for the extraction, exploration, development, and utilization of natural resource products; and promulgates policies, rules and regulations for the control of water, air and land pollution.
- d. Department of Health (DOH) as represented by the Research Institute For Tropical Medicine, which undertakes research and development activities in the peaceful uses of nuclear energy, institutes regulations on said uses, and carries out the enforcement of said regulations to protect the health and safety of radiation workers and the general public.
- e. Department of Finance (DOF) as represented by the Bureau of Customs, which implements effective revenue collections, prevents and suppresses smuggling and entry of prohibited imported goods, supervises and controls the entrance and clearance of vessels and aircrafts engaged in foreign

1 commerce, and enforces the Tariff and Customs Code of the Philippines and
2 all other laws, rules, regulations related to tariff and customs administration.

3 f. Department of Science and Technology (DOST) as represented by the
4 following: (1) the Philippine Nuclear Research Institute (PNRI), which
5 undertakes research and development activities in the peaceful uses of nuclear
6 energy and institutes regulations on such uses and carries out the enforcement
7 of said regulations to protect the health and safety of radiation workers and the
8 general public; (2) the Advanced Science and Technology Institute, which
9 conducts scientific research and development in the advanced fields of
10 Information and Communication Technology and Microelectronics; and (3)
11 the Industrial Technology Development Institute (ITDI), which plays a
12 critical role in the standardization of various products and materials, and in the
13 maintenance of the accuracy and international traceability of the various units
14 of measurements by providing tests and analytical services needed by
15 government agencies and industries for evaluation, testing and
16 standardization, and establishes and maintains the national physical standards
17 of basic and derived quantities (e.g. mass, volume).

18 g. Department of National Defense (DND) as represented by the Office of
19 Government Arsenal, which is the center for the development of production
20 capabilities to enhance the country's self-sufficiency in defense requirements
21 and which is utilized in the production of basic weapons, ammunition and
22 other munitions for the use of the AFP and the PNP, and for the sale and
23 export of products in excess of AFP and PNP requirements.

h. Department of the Interior and Local Government, (DILG) as represented by the Philippine National Police, which issues permits and licenses for the purchase and manufacture/dealing in of firearms, explosives, ammunition, munitions and other incendiary devices; and.

i. Department of Foreign Affairs (DFA) as represented by the Office of the United Nations and Other International Organizations, which is the government's prime agency responsible for the pursuit of the State's foreign policy and who is committed to secure a world free from serious environmental degradation, transnational crime and proliferation of nuclear weapons.

For purposes of this Act, the Office of the Special Envoy on Transnational Crime shall serve as the regulatory agency in the trade of strategic goods and services.

To ensure a smooth transition to the Council, the incumbent Special Envoy of the Office of the Special Envoy on Transnational Crime (OSETC) shall be designated as the Chairman of the Council for a fixed term of four (4) years. Thereafter, the succeeding Chairman shall be elected by members of the Council from among themselves and shall have a fixed term of four (4) years unless removed for cause.

The Vice-Chairman shall, likewise, be elected by the members of the Council from among themselves.

SEC. 7. Powers and Functions of the Council – Aside from the existing regulatory and licensing functions performed by the members of the Council in their respective departments/bureaus/agencies, they shall have the following powers and functions:

a. Formulate strategies and policies for the effective implementation of this Act;

- b. Coordinate, implement, monitor and evaluate policies and measures, programs, plans and activities that will establish the country's Strategic Goods Control System;
- c. Call on the Philippine National Police (PNP) and other law enforcement agencies of the government for assistance in the form of personnel, facilities and other resources as the need arises in the discharge of its functions;
- d. Call on the appropriate enforcement agency to conduct investigation, initiate court action, or in any manner proceed against any person, corporation, or firms who willfully violates, attempts to violate or conspires to violate any provisions of this Act;
- e. Create specific working groups by enlisting the assistance and support of government agencies, bureaus, boards, instrumentalities of government-owned or controlled corporations; the academe; as well as, private institutions, corporations, firms, associations or persons to carry out its functions, including the use of its personnel, facilities and resources for research, developmental and promotional activities necessary in support of the provisions of this Act;
- f. Formulate policies and recommendations, regulate programs and advise government agencies and private organizations engaged or involved in activities allied to or affecting the country's importation, exportation and re-exporting, transiting and transshipping such as forwarding, brokering, shipping, insurance, warehousing, financing; and recommend measures that will enhance effective monitoring of strategic or dual-use goods, items and services;

- 1 g. Develop common end-users' certification standards in strategic or dual-use
- 2 goods and items control for purposes of transparency and accountability;
- 3 h. Maintain, update and publish the National Control List, in coordination with
- 4 appropriate regulatory agencies;
- 5 i. Strengthen capability-building through technical assistance and training on
- 6 various measures to detect, monitor, investigate and seize inadvertent or illicit
- 7 import, export, re-export, transit, transshipment of strategic goods and items;
- 8 j. Identify stakeholders both from the public and private sector, particularly
- 9 business and other civil entities, and define their roles and responsibilities in
- 10 the Strategic and Dual-Use Goods Control System;
- 11 k. Strengthen and enhance bilateral and multilateral cooperation and recommend
- 12 amendments, as appropriate, to existing agreements where the State
- 13 signatories are the point of origin, destinations or transit of strategic goods and
- 14 items;
- 15 l. Formulate and implement policy recommendations to maintain the
- 16 confidentiality of the disclosure of information, unless and until it meets the
- 17 national security or foreign policy interests of the country; and
- 18 m. Perform such other powers and functions necessary to effectively carry out the
- 19 provisions of the Act.

20 SEC. 8. *Meetings and Quorum.* – The Council shall meet at least once every

21 quarter, but may be convened by its Chairman to such special meetings as may be

22 necessary. The members of the Council shall be duly notified of any meeting in advance.

23 The first meeting of the Council shall take place within one (1) month from the

24 effectivity of this Act, at a time and place to be designated by the Chairman.

1 All meeting shall only be convened with a quorum of simple majority of the
2 regular Council members. All meeting without the said quorum shall be deemed null and
3 void.

4 SEC. 9. *Secretariat.* – The Council shall have the Office of the Special Envoy on
5 Transnational Crime (OSETC) of the Office of the President of the Philippines as the
6 principal secretariat to provide administrative support and technical assistance to the
7 Council. It shall be assisted by personnel from the member-agencies to effectively carry
8 out the functions of the Council. The Secretariat shall be headed by an Executive
9 Director who shall be appointed by the President, upon the recommendation of the
10 Council, and serve as its Chief Operating Officer.

11 The OSETC, as an oversight body on transnational crime, shall coordinate the
12 overall policies and programs of the Council, and shall oversee its operations and
13 administration.

14 TITLE III – RESPONSIBILITIES AND RESTRICTIONS OF PARTIES IN
15 STRATEGIC TRADE TRANSACTIONS

16 SECTION 10. *Responsibilities of Traders.* – Any person who intends to export,
17 import, transit, transship or re-export a strategic goods and services, herein defined,
18 shall be required to obtain a license from the appropriate regulatory agency as provided in
19 Section 14 of this Act. No person shall be allowed to place any strategic goods and
20 items on any vessel located within the territorial and exclusive economic jurisdiction of
21 the Philippines without the consent of the owner or operator.

22 SEC. 11. *Responsibilities of Owners and Operators of Vessels.* – Owners and
23 operators of a vessel shall be prohibited from releasing any strategic goods and items
24 within the territory of the Philippines unless the person to whom an import license has

1 been issued presents a license to such owner or operator. The owner or operator of a
2 vessel shall submit to the Bureau of Customs and other duly designated offices, a duly
3 certified copy of the license and a copy of the extract of the manifest of the vessel in or
4 on which the strategic goods and items arrived.

5 All strategic goods and items which are imported, exported, transited,
6 transshipped or re-exported shall be recorded in a manifest which shall contain such
7 particulars as the Implementing Rules and Regulations (IRR) as this Act may prescribed.

8 The owner or operator of a vessel, on entering or leaving the territory of the
9 Philippines shall :

- 10 a. Furnish the Bureau of Customs a manifest identifying any strategic goods
11 and items being imported or exported in the vessel;
- 12 b. Allow any duly authorized member of the Bureau of Customs to board a
13 vessel, inspect the cargo for strategic goods and items and search the vessel
14 for strategic goods and items; and
- 15 c. Furnish a written list of every port or place at which such vessel has called
16 during the period of three (3) months immediately preceding arrival in
17 Philippine territory.

18 SEC. 12. *Responsibilities of Persons Engaged in Brokering Activities.* – No
19 person subject to this Act may engaged in brokering activities without a license,
20 including brokering activities involving strategic goods and items as herein defined,
21 even if the same is not transited or transshipped through, or exported from the territory of
22 the Philippines.

23 SEC. 13. *Responsibilities of Parties.* – It shall be the responsibility of any person subject
24 to this Act to verify whether an item falls under the National Control List and subject to

1 regulations. Where any unit or individual knows or should know that the goods and items,
2 technologies and equipment to be exported or imported will be used by the receiving party for the
3 purpose of putting together a WMD or WMD program, it shall not export or import such goods
4 and items, technologies and equipment whether included in the National Control List or not,
5 unless appropriate licenses are obtained.

6 SEC. 14. *Registration and Issuance of Permits and Licenses.* – Anyone who intends to
7 engage in the trade of strategic goods and items shall register directly with the appropriate
8 regulatory agencies. Dual-use goods and items that are not normally covered under any regulatory
9 agency shall be elevated to the Council, upon recommendation of its members for determination of
10 the appropriate regulatory agency. The trader shall then file for a license application to be
11 accomplished in such a prescribed manner and form and accompanied by such fees as may be
12 prescribed under the implementing rules and regulations of this Act.

13 The regulatory agency, likewise, shall grant permit or license to an applicant within a
14 reasonable period of time so as not to impede regular flow of trade, subject to conditions it may
15 deem fit and may renew a license with or without conditions.

16 The Council may, upon recommendation of the involved regulatory agency of the
17 government, temporarily decide to exercise export control on specific dual-use goods and items
18 and related equipment and technologies other than those listed in the National Control List, if
19 deemed necessary, under the following circumstances:

- 20 a) Customer comes from countries engaged in proliferation and listed as “troubled
21 countries”;
- 22 b) Customer is reluctant to offer information about end-use of the good or item;
- 23 c) Customer is willing to pay cash for expensive items;

- d) If there is reason to believe that the information or documentation provided by the customer related to the transaction is false;
- e) Shipping route is abnormal for destination;
- f) Product capabilities do not fit the buyer's line of business; and
- g) Technical level of company is inconsistent with the commodity being traded.

SEC. 15. *Breach of Conditions of Registration, License or Permit.* – Any person who holds a permit or is registered to engage in trade of strategic goods and items and who contravenes a condition of the permit or license or registration prescribed under the IRR of this Act shall be held liable and shall suffer the penalty as prescribed in Section 25 of this Act.

Anyone who undertakes trade of strategic goods and items, technologies, equipment and services without being licensed, or trade beyond the scope of the license granted without authorization shall be investigated for criminal liability in accordance with the relevant provisions of existing laws on the crime of smuggling, illegal business operations, or such other crimes. If such crimes are not serious enough for criminal punishment by distinguishing different circumstances, they shall be punished in accordance with applicable provisions of the Customs Law, or be given a warning, or have their goods confiscated, and be fined according to relevant provisions of the Philippine Trade Laws. The appropriate regulatory agency may concurrently revoke the license for their foreign trade operations.

Where the receiving party contravenes the guarantees made according to the conditions, permit or license granted, or there is a risk of proliferation of dual-use restricted goods, items, technologies and equipment, the Council, thru the appropriate regulatory agency, shall suspend or revoke the license or permit initially granted, and

1 immediately notify the Bureau of Customs of such suspension or revocation of license or
2 permit.

3 SEC. 16. *Other Restrictions.* – A license holder who intends to change the
4 original declaration of end-use of the strategic goods and items, technologies and
5 equipment as previously declared shall surrender the original license and must file an
6 application for a new license subject to the provisions of this Act.

7 Any person who forge, buy or sell license for the conduct of trade transactions on
8 strategic goods and items, technologies and equipment shall be held liable for criminal
9 liability in accordance with existing laws on the crime of illegal business operations, of
10 the crime of forging, altering, buying or selling of official documents, certificates or seal
11 of State functionaries. If such act is not serious enough for criminal punishment, they
12 shall be punished in accordance with relevant provisions of the Customs Law, and the
13 appropriate regulatory agency may concurrently revoke the license for foreign trade
14 operations.

15 When the license for the trade of strategic goods and items, technologies and
16 equipment is obtained by fraud or other illegal means, the appropriate regulatory agency
17 shall impose the following penalties:

18 a. For the first offense –

19 Confiscation of subject illegal goods and imposition of a fine.

20 b. For the second offense –

21 Suspension or revocation of the license for their foreign trade operations for a
22 period of not less than six (6) months but not more than one (1) year.

23 c. For the third offense –

24 Revocation or cancellation of license.

1 SEC. 17. *Liability of Bureaus/Agencies.* – Agencies/bureaus in charge of
2 controlling and regulating the trade of strategic goods, items, technologies and
3 equipment who abuse their powers, neglect their duties or extort or accept money or bribe
4 by taking advantage of their positions, shall be investigated for criminal and
5 administrative liability in accordance with existing criminal and administrative laws.

6 SEC. 18. *Documents and Records-Keeping Requirements.* – As provided in
7 Section 14 of this Act, the following documentary requirements shall be complied with
8 when applying for a license or permit:

- 9 a. Identification of the applicant's legal representative, manager and the person
10 handling the deal;
- 11 b. Duplicates of contract agreement and other certification documents;
- 12 c. Technical specification of the strategic goods, items, technologies and
13 equipment;
- 14 d. Certificate of end-user and declaration of end-use;
- 15 e. Documents of guarantee from the receiving party that such strategic goods,
16 items, technologies and equipment subject of such transaction will:
 - 17 i. Not to be used for the development, production, acquisition or stockpiling
18 of nuclear/radiological, biological and chemical weapons or missiles capable of
19 delivering such weapons;
 - 20 ii. Not to be used for purposes other than the declared end-use without the
21 consent of authorized Philippine regulatory agencies; and
 - 22 iii. Not to be transferred to any third party other than the declared end-user
23 without the consent of authorized Philippine regulatory agencies.

1 The Bureau of Customs shall be provided with copies of all documentations
2 mentioned.

3 SEC. 19. *Obligations of Applicants.* – Any person subject to the requirements of
4 this Act shall keep a record of the transit, transshipment or re-export of strategic goods,
5 items, technologies and equipment and all other information that may be required by the
6 regulations for a period of five (5) years.

7 Any person who, in connection with an application for permit or license or
8 registration, or being required to give any information or document to an authorized
9 officer a) gives any information that is false or misleading in a material particular; or b)
10 gives any documents which gives a statement or omits any matter which renders the
11 document false or misleading in a material particular shall be liable to the penalty
12 prescribed in Section 25 of this Act.

13 SEC. 20. *Confidentiality of Business Proprietary Information.* – No information
14 obtained as part of the license application may be disclosed to any non-government
15 agency unless such disclosure is in the national security or foreign policy interest of the
16 Philippines or the same may facilitate progress of pending investigations.

17 SEC. 21. *Obstruction of Authorized Enforcement Officer.* – It shall be unlawful
18 for any person who, without lawful excuse, commits the following acts:

- 19 a. Refuse an authorized officer or person acting in his assistance, access to any
20 conveyance or premises which the authorized officer is entitled under this
21 Act;
22 b. Obstructs or hinders an authorized officer in the execution of any powers
23 conferred upon the authorized officer; and

1 c. Refuses to provide reasonable assistance to an authorized officer in the
2 execution of any powers conferred upon him in this Act.

3 SEC. 22. *Special Courts.* – To ensure the effective adjudication of controversies
4 under this Act and other trade competition laws, the Supreme Court shall designate such
5 Regional Trial Courts that will have exclusive jurisdiction over violations of this Act.
6 The trial of the case under this Act shall be decided by the court not later than sixty (60)
7 days from the date of the filing of the information. Decision on said cases shall be
8 rendered within the period of fifteen (15) days from the date submission of the case for
9 resolution.

10 SEC. 23. *Special Prosecutor.* – Within thirty (30) days from the date of the
11 effectivity of this Act, the Department of Justice (DOJ) shall designate a special
12 prosecutor to exclusively handle cases in violation of this Act. The special prosecutor
13 shall coordinate with the Council in the performance of its duties and functions.

14 The Council may appoint a private prosecutor on a case-to-case basis to assist the
15 special prosecutor in the enforcement of this Act.

16 SEC. 24. *Prosecution of Cases.* – The preliminary investigation of cases filed
17 under this Act shall be terminated within a period of thirty (30) days from the date of
18 filing.

19 When the preliminary investigation is conducted by a special prosecutor and a
20 probable cause is established, the corresponding information shall be filed in court within
21 twenty-four (24) hours from the termination of the investigation. If the preliminary
22 investigation is conducted by a judge and a probable cause is found to exist, the
23 corresponding information shall be filed by the special prosecutor within forty-eight (48)
24 hours from the date of receipt of the record.

1 SEC. 25. *Penalties.* –

- 2 a. Any person who shall violate the provisions of Sections 10, 11, 12 and 13
3 of this Act and not be covered by the Probation Law shall, upon conviction,
4 suffer the penalty of imprisonment of not less than six (6) months but not
5 more than six (6) years or a fine of not less than One Hundred Thousand
6 Pesos (₱100,000.00) but not more than Five Hundred Thousand Pesos
7 (₱500,000.00) or both, at the discretion of the Court;
- 8 b. Any person who shall breach the conditions of registration, license or permit
9 as provided in Section 15 of this Act shall, upon conviction, suffer the penalty
10 of imprisonment of not less than two (2) years but not more than six (6) years
11 or a fine of not less than Three Hundred Thousand Pesos (₱300,000.00) but
12 not more than Five Hundred Thousand Pesos (₱500,000.00) or both, at the
13 discretion of the Court;
- 14 c. Any person who shall give false or misleading information in the application
15 for permit, license or registration as provided in Section 19 of this Act shall,
16 upon conviction, suffer the penalty of imprisonment of not less than Four (4)
17 years but not more than six (6) years or a fine of not less than One Hundred
18 Thousand Pesos (₱100,000.00) but not more than Three Hundred Thousand
19 Pesos (₱300,000.00) or both, at the discretion of the Court;
- 20 d. Any person who shall violate the confidentiality of business proprietary
21 information as provided in Section 20 of this Act shall, upon conviction,
22 suffer the penalty of imprisonment of not less than six (6) months but not
23 more than one (1) year or a fine of not less than Fifty Thousand Pesos

(P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00)

or both, at the discretion of the Court; and

- e. Any person who shall commit any of the acts provided in Section 21 of this Act shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than Ten Thousand Pesos (P10,000.00) but not more than Fifty Thousand Pesos (P50,000.00), or both.

SEC. 26. *Violation by Corporation, Partnership, Association, and Other Entity.*

– Whenever a corporation, partnership, association, firm or other entity, whether domestic or foreign, shall commit any of the acts declared to be unlawful under this Act, the Chairman of the Board of Directors, the President, the General Manager of the corporation, the general partners of a partnership, and the officers and employees directly responsible therefore, shall be imposed the corresponding penalty of imprisonment provided in Section 25 hereof, with such juridical entity being jointly and severally liable with the offender for the fine imposed therein.

SEC. 27. *Violation by Government Officials or Employees.* – In case the offender is a government official or employee, he or she shall, in addition to the penalties prescribed in Section 25 of this Act, be deemed automatically dismissed from office after due process, forfeiture of benefits provided by law and permanently disqualified from holding any elective or appointive position in the government.

SEC. 28. *Alien Violators.* – If the person violating any provision of this Act is a foreigner, he shall, in addition to the other penalties imposed herein, be deported immediately after service of sentence without need of any further proceedings.

1 SEC. 29. *Administrative Fines.* – In all cases of violations of this Act, including
2 violations of implementing rules and regulations which have been duly promulgated and
3 published in accordance with Section 30 of this Act, the Chairman of the Council is
4 hereby authorized to impose a fine of not less than Ten Thousand Pesos (P10,000.00), but
5 not more than Fifty Thousand Pesos (P50,000.00), upon any person or entity found guilty
6 thereof. The administrative fines imposed and collected by the Council shall accrue to a
7 special fund to be administered by the Council exclusively for projects and activities
8 relative to its powers and functions.

9 TITLE IV – FINAL PROVISIONS

10 SEC. 30. *Implementing Rules and Regulations.* – Within sixty (60) days after
11 the effectivity of this Act, the Chairman of the constituted Strategic Goods Management
12 Council shall, in consultation with the members of the Council, promulgate such rules
13 and regulations necessary for the effective implementation of this Act. The Council shall
14 specify the functions of each agency on the licensing of dual-use goods and items not
15 covered by any existing regulation.

16 SEC. 31. *Appropriations.* – The sum of Eighty-Five Million (Php85,000,000.00)
17 pesos or so much thereof as may be necessary for the effective implementation of this
18 Act for the initial year shall be appropriated from the National treasury not otherwise
19 appropriated. Thereafter, such amount as may be necessary for the continuous
20 implementations of this Act shall be included in the Annual General Appropriations Act.

21 SEC. 32. *Suppletory Application.* – For purposes of this Act, the Revised Penal
22 Code and other applicable laws shall have suppletory application.

1 SEC. 33. *Separability Clause.* – If any provision or part of this Act is declared
2 invalid or unconstitutional, the remaining parts or provisions not affected shall remain in
3 full force and effect.

4 SEC. 34. *Repealing Clause.* – All laws, decrees, ordinances, rules and
5 regulations, executive or administrative orders, and other issuances or parts thereof which
6 are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

7 SEC. 35. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
8 publication in the Official Gazette or in two (2) national newspapers of general
9 circulation.

10 Approved,