

Republic of the Philippines
House of Representatives
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

06 MAR 2012

5:45 PM
J. Reyes

COMMITTEE REPORT NO. 1990

Submitted by the Committees on Government Reorganization, Trade and Industry, and Appropriations on 06 MAR 2012;

Re: House Bill No. 5977

Recommending its approval in substitution of House Bill Nos. 56, 186 and 1892;

Sponsors: Reps. Jalosjos, Garcia and Abaya

Mr. Speaker:

The Committees on Government Reorganization, Trade and Industry and Appropriations, to which were referred House Bill No. 56, introduced by Representative Lorenzo R. Tañada III, entitled:

“AN ACT
ESTABLISHING A FRAMEWORK FOR RESPONSIBLE AND ACCOUNTABLE
TRADE NEGOTIATIONS BY CREATING THE PHILIPPINE TRADE
REPRESENTATIVE OFFICE, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES”

House Bill No. 186, introduced by Representative Henry Pryde A. Teves, entitled:

“AN ACT
CREATING THE OFFICE OF THE PHILIPPINE TRADE REPRESENTATIVE
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES”

and House Bill No. 1892, introduced by Representative Karlo A.B. Nograles, entitled:

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

5977

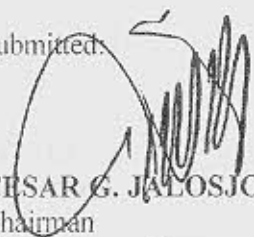
have considered the same and recommend that the attached House Bill No. _____ entitled “AN ACT CREATING THE PHILIPPINE TRADE REPRESENTATIVE OFFICE, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES” be approved in substitution of House Bill Nos. 56, 186 and 1892 with Representatives Lorenzo R. Tañada III,

Henry Pryde A. Teves, Karlo A.B. Nograles, Cesar G. Jalosjos, Albert Raymond S. Garcia, Joseph Emilio A. Abaya, Arthur R. Defensor Jr., Jorge T. Almonte and Ma. Amelita Calimbas-Villarosa as authors thereof.

Respectfully submitted.



ALBERT RAYMOND S. GARCIA
Chairman
Committee on Trade and Industry



CESAR G. JALOSJOS
Chairman
Committee on Government Reorganization



JOSEPH EMILIO A. ABAYA
Chairman
Committee on Appropriations

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
Quezon City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
15th Congress

House Bill No. 5977

(in substitution of HB Nos. 56, 186 and 1892)

Introduced by the Representatives Lorenzo R. Tañada III, Henry Pryde A. Teves, Karlo A.B. Nograles, Cesar G. Jalosjos, Albert Raymond S. Garcia, Joseph Emilio A. Abaya, Arthur R. Defensor Jr., Jorge T. Almonte and Ma. Amelita Calimbas-Villarosa

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:

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

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

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

10 Congress has the power to regulate commerce, including commerce with foreign
11 nations, and has the power to re-organize the bureaucracy in order to make it more responsive
12 to the needs of all the stakeholders in the Philippine economy and the exigencies of
13 international economic relations. Any international economic, commercial, or trade
14 agreement entered into by the Government constitutes regulation of commerce and will affect
15 the different stakeholders in our economy. Hence, it is essential that any agreement is
16 harmonized with existing domestic commercial laws and the 1987 Philippine Constitution.

Moreover, Congress, as one of the three (3) branches of the Government, has power over foreign relations, especially international economic relations. 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 the efforts of government agencies towards formulating cohesive policies, measures, and conduct regular consultations with stakeholders on matters pertaining 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 the 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 securing and offering better trading conditions to 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 ongoing 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 law 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 capacity.

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.

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 considers 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 shall hold a Cabinet rank and who shall have a fixed term of six (6) years.

The Trade Office shall have three (3) Deputy Trade Representatives, each of whom shall hold the rank of an 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 (1) Deputy shall serve for six (6) years, another Deputy for four (4) years and another Deputy for two (2) years.

Within thirty (30) days from the effectivity of this Act, the President shall appoint the Philippine Trade Representative with the confirmation of the Commission on Appointments., together with the Deputy Trade Representatives upon the endorsement of various stakeholders.

Section 5. **Qualifications and Limitation on Appointments.** -

a) **Qualifications.** - The Philippine Trade Representative and Deputy Trade Representatives must be natural-born citizens of the Philippines, at least thirty-five (35) years of age, with the exception of the Philippine Trade Representative who should be at least forty

(40) years of age, of good moral character, unquestionable integrity, and known probity and patriotism, and must have 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 conflict 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 the person 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, the Deputy Trade Representatives, and all members of the research group and legal team of the Trade Office 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 Trade Office.

Sec. 6. *Functions and Responsibilities of the Trade Office.* - The Trade Office shall:

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

b) 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;

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

4 d) Formulate the Philippine Trade position aimed to support the achievement of the
5 economic goals defined in the Constitution that is a product of a regular and meaningful
6 consultation with relevant government agencies and various civil society stakeholders;

7 e) Negotiate trade and investment agreements on the basis of the Philippine Constitution
8 and other laws, and represent the Philippines in all international trade negotiations, including,
9 but not limited to, any matter considered under the auspices of world trade organizations, and
10 other regional and bilateral commodity and direct investment negotiations in which the
11 Philippines participates;

12 f) Advise the President and Congress on international trade and investments policies and
13 their implications on the domestic economy and the impact of domestic policies on
14 international trade and investments commitments;

15 g) Assert and protect the rights and interests of the Philippines under all bilateral,
16 regional and multilateral trade and investment agreements by coordinating quick and decisive
17 inter-agency response including but not limited to cases of unfair trade practices, import
18 surges and rules on investment;

19 h) Provide the necessary staff support to the Mutli-Sectoral and Sub-Sectoral Advisory
20 Committee and the Inter-Agency Coordinating Committee;

21 i) Appoint, employ and fix the compensation in accordance with existing compensation
22 laws of such officers and employees as are necessary and prescribe their authority and duties,
23 subject to Civil Service Commission laws, rules and regulations;

24 j) Employ and compensate experts and consultants in accordance with the relevant laws;

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

27 l) Enter into and perform such contracts, leases, cooperative agreements, or other
28 transactions as may be necessary in the conduct of the work of the Office and on such terms
29 as the Philippine Trade Representative may deem appropriate with any agency or
30 instrumentality of the Philippine government or with any public or private person, firm,
31 association, corporation or institution; and

32 m) Adopt an official seal which shall be judicially noticed.

1 Sec. 7. *Functions of the Philippine Trade Representative.* - The Philippine Trade
2 Representative may, for the purpose of carrying out the functions of the Trade Office:

3 a) Create the organizational structure of the Trade Office consistent with its mandate and
4 functions provided in this Act and according to strategic needs, and review the structure
5 regularly;

6 b) Head the Trade Office and exercise control and supervision over all its functions,
7 activities, and its organization;

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

12 d) Create sectoral and thematic desks that will receive and facilitate referral to
13 appropriate agencies of complaints, information and concerns pertaining to trade and
14 investment matters;

15 e) Chair the Inter-agency Coordinating Committee on international trade and
16 investments;

17 f) Monitor and enforce the implementation of Philippine International Trade policy,
18 including direct investment matters to the extent that they are related to international trade
19 policy;

20 g) Coordinate with national agencies in the performance of functions, including the right
21 to issue compulsory processes pursuant to Sec. 15 of this Act;

22 h) Call upon and deputize, in times of trade policy formulation and negotiations, the
23 national agencies and their personnel, and correspondingly use the services of the deputized
24 agency, whose functions are related to or affect international trade policy, including direct
25 investment matters to the extent that these are related to international trade policy;

26 i) Co-chair the Multi-Sectoral Advisory Committee in its regular and special meetings;
27 and

28 j) Perform such other functions inherent to the functions of the Philippine Trade
29 Representative and as the President may direct pursuant to this Act.

30 Sec. 8. *Ex-officio positions and functions of the Philippine Trade Representative.* - The
31 Philippine Trade Representative shall be entitled to the following ex-officio positions and
32 functions:

- 1 a) Senior representative on any body that the President may establish for the purpose of
- 2 advising the President on over-all economic policies in which international trade
- 3 matters predominate; and
- 4 b) Participant in all economic summits and other international meetings in which
- 5 international trade is a major topic.

6 **Sec. 9. *Functions and Duties of the Deputy Trade Representatives.*** – The Deputy Trade
7 Representatives shall have as principal function the conduct of trade negotiations under this
8 Act and shall have such other functions as the Philippine Trade Representative may direct, to
9 wit:

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

19 **Sec. 10. *Inter-Agency Coordinating Committee and Sub-Committees.*** - In connection
20 with the performance of the functions, the Philippine Trade Representative shall, to the extent
21 necessary for the proper administration and execution of the trade and investment agreements
22 of the Philippines, draw upon the expertise of, and consult with national agencies.

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

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

Sec. 11. *Membership in the NEDA Board.* - The Philippine Trade Representative shall be a member of the National Economic Development Authority (NEDA) Board which was created under Executive Order No. 230. The Philippine Trade Representative shall have the same rights and obligations as all the other members of the Board.

Sec. 12. *Organization of the Trade Office.* - Pursuant to the provision of this Act and to function effectively, the Philippine Trade Representative shall be internally supported by a Trade Research, Data Collection, Analysis and Dissemination Service, and a Legal Service. Both Services shall comprise the Trade Office.

Sec. 13. *The Trade Research, Data Collection, Analysis and Dissemination Service.* -

The Trade Research, Data Collection, Analysis and Dissemination Service under the Trade Office shall have the following specific functions and responsibilities:

a) Improve and strengthen the capacity of the Trade Office on research, data collection, analysis, and dissemination of trade and investments statistics, laws and policies, agreements and other related information.

b) Generate, maintain, and update records/files of comprehensive national and international trade statistic, tariff and non-tariff measures, and investment-related data;

c) 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;

d) Provide the general public access to trade data and information and other relevant documents through online databases, journals, publications, etc.;

e) Collaborate with government and non-government research institutions in research concerning trade and investments policies and programs in relation to the national development program;

f) 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;

1 g) Perform other functions as may be provided by law or assigned by the Trade
2 Representative or Deputy Trade Representative; and

3 h) Conduct or facilitate the conduct of trainings and courses for the benefit of the
4 technical staff of the office and other government personnel directly or indirectly engaged in
5 trade and investment policy work in order to build, improve and enhance the capacity and
6 competence in trade and investment negotiations.

7 Sec 14. *The Legal Service* - The Legal Service shall have the following functions and
8 responsibilities:

9 a) Provide legal advice to the Trade Office, including legal advice on trade and
10 investment negotiations;

11 b) Interpret laws and rules affecting the operation of the Trade Office;

12 c) Prepare contracts and instruments to which the Trade Office is a party, and interpret
13 provisions of contracts covering work performed for the Office by private entities;

14 d) Assist in the promulgation of rules governing the activities of the Trade Office;

15 e) Prepare comments on proposed legislation concerning the Trade Office;

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

19 g) Assist the Trade Office in ensuring that the rights and interests of the Republic of the
20 Philippines are protected in the World Trade Organization agreements, other multilateral
21 trade , regional, plurilateral and bilateral trade and investment agreements; and ensure that the
22 counterpart countries comply with their obligations in the agreements;

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

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

28 Sec. 15. *Issuance of Compulsory Processes*. - Pursuant to Section 7 of this Act, the Trade
29 Office, in aid of trade policy formulation and negotiations, shall have the power and authority
30 to invite or summon by subpoena ad testificandum any public official, private citizen or any
31 other person to testify before it, or require any person by subpoena duces tecum to produce

1 before it such records, reports, documents or other materials as it may require. There shall be
2 a compliance within thirty (30) days to the subpoena issued; otherwise any failure to comply
3 is punishable under Sec. 24 of this Act.

4 Sec. 16. *Filing of Cases Against Violators.* - The Trade Office shall have the authority to
5 file cases and other appropriate legal actions to further its mandate under Section 7 (f) and (g)
6 and collaborate, if necessary, with relevant government agencies and stakeholders in order to
7 protect the rights and interests of the Philippines in relation to trade and trade-related
8 investments.

9 Sec. 17. *The Multi-Sectoral Advisory Committee.* - There is hereby created a Multi-
10 Sectoral Advisory Committee, hereinafter referred to as MSAC.

11 The MSAC shall be composed of representatives of industries, agriculture, labor, small
12 business, service industries, retailers, and consumers and shall be broadly representative of
13 key economic sectors and groups affected by trade.

14 Members of the MSAC and Subcommittees shall be appointed by the Philippine Trade
15 Representative upon the endorsement of various non-government organizations and
16 stakeholders. Members of the MSAC shall serve without either compensation or
17 reimbursement of expenses.

18 The MSAC will meet as needed at the call of the MSAC Chairman or the Philippine
19 Trade Representative depending on various factors such as the level of activity of trade
20 negotiations.

21 Sec. 18. *Duties and Functions of the MSAC.* - The MSAC shall provide information and
22 advice to the Philippine Trade Representative on trade and trade-related matters towards the
23 achievement of the economic goals defined in the 1987 Constitution that are aimed at
24 balancing the interest of these various stakeholders with respect to:

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

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

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

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

5 *In addition, the MSAC shall:*

6 a) Provide technical support to the Philippine Trade Representative by drawing upon the
7 knowledge and expertise of the members:

8 b) Prior to any trade negotiations, participate in the development of the negotiation
9 objectives and bargaining positions of the country and at the conclusion of negotiation for its
10 trade agreement entered into, provide a report to the Philippine Trade Representative to form
11 part of the latter's report to the President and Congress, pursuant to Sec.6 (f) hereof. The
12 report of the MSAC shall include an assessment and evaluation of whether and to what extent
13 the agreement promotes Philippine economic interests and achieves the applicable overall
14 and principal negotiating objectives set forth:

15 c) Be allowed to accompany and advise the Philippine delegation in trade and
16 investment negotiation missions; and

17 d) Recommend to the Philippine Trade Representative the participation of private sector
18 representative to accompany the Philippine delegation in an observer capacity in trade
19 negotiations.

20 *Sec. 19. Meetings, Agenda and Staff Support.* - The Philippine Trade Representative
21 shall:

22 a) Preside over the MSAC, which will meet as needed at the call of the MSAC Chairman
23 or the Philippine Trade Representative depending on various factors such as the level of
24 activity of trade negotiations;

25 b) Call for a regular meeting of MSAC during the First and Third Quarter of the year and
26 may call for special meeting as may be necessary depending on various factors such as the
27 level of activity of trade negotiations;

28 c) Approve and set the agenda for all MSAC meetings; and

29 d) Provide Secretariat and other necessary staff support for the MSAC meetings.

1 Sec. 20. *Sub-Sectoral Advisory Committee.* - There is hereby created a Sub-Sectoral
2 Advisory Committee, hereinafter referred to as "SSAC" to be defined by the Philippine
3 Trade Representative for trade and investment policy formulation and negotiations.

4 The SSAC shall be broadly representative of the key sectors and groups of the economy,
5 particularly with respect to those sectors and groups which are affected by trade and shall
6 consist of representatives of industry, academe, agriculture, fisheries, labor, small business,
7 service industries, retailers, consumer interest and other stakeholder groups.

8 Members of the MSAC and SSAC shall be appointed by the Philippine Trade
9 Representative upon the endorsement of various non-government organizations and
10 stakeholders. Members of the Committee shall serve without either compensation or
11 reimbursement of expenses.

12 The Chairperson of the MSAC and SSAC shall be elected by its members.

13 Sec. 21 *Confidentiality Agreement.* - The members of the MSAC and its Subcommittees
14 shall:

15 a) Enter into a confidentiality agreement with the Trade Office; and

16 b) Comply with other requirements established by the Trade Office to protect from
17 unauthorized disclosure all classified information, and all information relating to trade policy
18 formulation and negotiation.

19 Sec. 22. *Joint Congressional Oversight Committee on Trade and Investment*
20 *Matters.* - There shall be a Joint Congressional Oversight Committee on Trade and
21 Investment matters, hereinafter referred to as the "Congressional Oversight Committee", to
22 which the Trade Office shall regularly report to ensure concurrence and authority regarding
23 negotiating mandate and parameters, and shall comply immediately to any order of the Joint
24 Congressional Oversight Committee. The Oversight Committee shall be composed of five
25 (5) members from the Senate, which shall include the Senate President, the Senate majority
26 and Minority Leaders, and five (5) members from the House of Representatives which shall
27 include the Speaker of the House and the Majority and Minority Leaders.

28 The Congressional Oversight Committee shall conduct a periodic review and
29 evaluation of the performance of the Trade Office, including its officials, every three (3)

1 years. An independent panel composed of experts to be appointed by the Committee shall
2 review the activities and performance of the Trade Office and shall make recommendations,
3 based on its findings, to the Congressional Oversight Committee. The independent panel of
4 evaluators shall likewise conduct consultations with stakeholders in the conduct of the
5 review.

6 **Sec. 23. *Reportorial Requirements.*** - The Trade Office shall comply with the following:

7 a) Report to Congressional Oversight Committee and to the MSAC as herein created any
8 intention to negotiate any economic treaty, be it bilateral, regional, or multilateral. At the
9 minimum, the report shall contain the subject matter for negotiations and the general
10 objectives of the government. The Trade Office shall update the Congressional Oversight
11 Committee and the MSAC on the negotiations, including the offers and counter-offers of all
12 the parties and shall also notify the Congressional Oversight Committee and the MSAC of
13 any tentative or final agreement of the parties;

14 b) Report at least twice a year and as may be directed by the President or the
15 Congressional Oversight Committee and as may be requested by MSAC on the developments
16 of any international trade and investment negotiations and/or Agreements; and

17 c) Submit a bi-annual report directly to the President, the Congressional Oversight
18 Committee and the MSAC regarding the implementation, operation and effectiveness of any
19 trade and investment agreement entered into including the status of ongoing trade and
20 investment negotiations, in which the Philippines participates.

21 **Sec. 24. *Administrative Fines And Penalties.*** -

22 a) Non-compliance on Issuance of Compulsory Processes – Any person or entity who
23 fails to comply to the subpoena issued by the Trade Office within the thirty (30) day deadline
24 shall suffer the penalty of imprisonment for a period of not less than six (6) months and not
25 more than one (1) year or shall be imposed a fine of not less than One Hundred Thousand
26 Pesos (PH100,000) and not more than Five Hundred Thousand Pesos (PH500,000), at the
27 discretion of the Court.

28 b) Violation of Confidentiality of Agreement – Any person or entity who shall violate
29 the confidentiality of agreement under this Act shall suffer the penalty of imprisonment for a
30 period of not less than six (6) months and not more than one (1) year or shall be imposed a

1 fine of not less than Two Hundred Fifty Thousand Pesos (PH250,000) and not more than Five
2 Hundred Thousand Pesos (PH500,000), at the discretion of the Court. The Trade Office shall
3 have the power to remove any member who violates this provision from membership in the
4 MSAC.

5 c) *Other Violations* – After due notice and hearing, the Philippine Trade Representative
6 shall have the power to impose administrative fines against any person, organization, or any
7 other entity, in such amount as it may be reasonable which in no case shall be less than Fifty
8 Thousand Pesos (PH50,000) and not more than Five Million Pesos (PH5,000,000) for any
9 violation of any provision under this Act.

10 Sec. 25. *Transfer of Functions*. - The functions of the Bureau of International Trade
11 Relations under the Department of Trade and Industry, Attaches and Permanent Mission to
12 the WTO, Association of Southeast Asian Nations (ASEAN) and United Nations
13 International Organization (UNIO), and the trade negotiating and policy-making functions of
14 the Tariff and Related Matters Committee (TRMC) are hereby transferred to the Trade
15 Office.

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

18 Sec. 26. *Transitory Provision* - The Tariff and Related Matters Committee (TRMC)
19 created under Section 6 of Executive Order No. 230, series of 1987, together with the
20 Technical Committee on WTO Matters shall continue to function for six (6) months or until
21 the Trade Office is set up whichever comes earlier, after which they shall cease to function.

22 Sec. 27. *Implementing Rules and Regulations*. - The Trade Office shall, in consultation
23 with the Department of Trade and Industry, the Department of Agriculture, and the
24 Department of Foreign Affairs and the NEDA, issue the rules and regulations necessary to
25 implement the provisions of this Act sixty (60) days from the date of appointment of the
26 Philippine Trade Representative.

27 Sec. 28. *Appropriations*. - The amount necessary to implement the provisions of this Act
28 shall be charged against the current year's appropriations of the Bureau of International Trade
29 Relations under the Department of Trade and Industry, Attaches and Permanent Mission to
30 the WTO, ASEAN and UNIO, the TRMC 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. 29. ***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. 30. ***Repealing Clause*** - All laws, rules and regulations and other issuances inconsistent with the provisions of this Act, including Section 6 of Executive Order 230 series of 1987 and relevant provisions of Executive Order No. 133 series of 1987 are deemed hereby revoked or repealed accordingly.

Sec. 31. ***Effectivity Clause*** - This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the *Official Gazette*.
Approved.

House of Representatives Committee Affairs Department

FACT SHEET

House Bill Nos. 56, 186 and 1892

Charter of the Philippine Trade Representative Office

Introduced by: **REPS. LORENZO R. TAÑADA III, HENRY PRYDE A. TEVES AND KARLO A.B. NOGRALES**

Committee Referral: Committee on Government Reorganization (Primary)

Committee Chairperson: Rep. Cesar G. Jalosjos

Committee Referral: Committee on Trade and Industry (Secondary)

Committee Chairperson: Rep. Albert Raymond S. Garcia

Committee Referral: Committee on Appropriations (Secondary)

Committee Chairperson: Rep. Joseph Emilio A. Abaya

OBJECTIVES:

- To establish a single entity principally responsible for monitoring and maintaining a cohesive and coherent trade policy vis-à-vis our national interest
- To ensure greater accountability of our trade negotiators with regard to trade and investment agreements.
- To beef up the country's negotiating capacity by building up databases, trade intelligence work, having solid research analysts and a legal team
- To involve Congress in formulating a negotiating mandate before any negotiations take place.
- To put in place mandatory consultative mechanisms for greater participation of the private sector as well as civil society organizations in trade negotiations
- To provide closer coordination between the Philippine Trade Representative, the various departments involved and Congress

KEY PROVISIONS:

- Creates the Philippine Trade Representative Office that shall lead, direct, formulate and coordinate government agencies towards formulating coherent and cohesive policies, positions and measures, and conduct regular stakeholders consultations with respect to international trade and investment relations and negotiations
- Provides that 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.
- Provides that the Trade Office shall negotiate trade and investment agreements on the basis of the Philippine Constitution and other laws, and represents the country in all international trade negotiations
- Provides that the Tariff and Related Matters Committee (TRMC) together with the Technical Committee on WTO Matters shall continue to function for six (6) months

until the Office of the Philippine Trade Representative is set up whichever comes earlier, after which they shall cease to function.

RELATED LAWS:

- Sec. 6 of E.O. No. 230, series of 1987
- E.O. No. 133, series of 1987