

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **1116**



Introduced by Honorable Arthur R. Defensor, Jr.

EXPLANATORY NOTE

As stated in the Constitution, "[t]he State shall promote industrialization and full employment x x x through industries that make full and efficient use of human and natural resources, wherein our resources are not to simply utilized, but maximized to their full potential.

One resource that the country has in abundance, and may well serve as one of the cornerstones of economic growth, is metal. This bill is in recognition that the metal industry should play a vital role in the country's progress.

Right now, the mining industry is already one of the drivers of the economy. However, in order to uphold the mandate of the Constitution of full and efficient use of our resources, there is a need to press on with the development of our metal resources. The development of our metal resources needs to take a further step from the plain extractive and ore or raw material export orientation of the mining industry.

This bill entitled, "AN ACT CREATING THE PHILIPPINE METAL INDUSTRY CORPORATION, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER RELATED PURPOSES", is renewed government enterprise intervention in the development of our metal resources. It rests on the policy that the creation of an organized government corporate entity, or PHILMICO in this bill, is necessary to assure the full development and maximized utilization of the metal resources of the country.

PHILMICO shall be the government's corporate arm that shall engage primarily in metal processing, to ensure the availability of metal products in the country, at competitive cost. Government enterprise participation through PHILMICO will generate much needed revenue. The added value to our processed metals will boost our exports. The accessibility of processed metal in the country will create a downstream

metal industry and increase our participation in the value chain of international trade. Likewise, it will remove our dependence on importation of metal products for our other vital industries. A downstream metal industry will generate employment and spur domestic business activity.

Government should intervene in order to harness the full potential of the metal industry, and make it a foundation of growth. For this reason, the passage of this bill is urged.

A stylized, handwritten signature in black ink, appearing to read 'ARD', with a large, sweeping flourish extending from the end of the signature.

ARTHUR R. DEFENSOR, JR.

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1116

Introduced by Representative Arthur R. Defensor, Jr.

AN ACT

CREATING THE PHILIPPINE METAL INDUSTRY CORPORATION, DEFINING ITS
POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER
RELATED 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 Metal
2 Industry Corporation."

3
4 **Section 2. Declaration of Policy.** It is hereby declared to be the policy of the State to
5 promote the economic progress of the country through the effective development of the
6 metal industry. Accordingly, the creation of an organized corporate entity is necessary
7 to ensure the full development and maximized utilization of the metal resources of the
8 country, and the availability at all times of metal products at competitive cost to all
9 users, for the accelerated economic growth and industrialization of the country.

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11 **Section 3. Creation, Name, Domicile and Term.** To carry out the above policy, there
12 is hereby created a body corporate to be known as the Philippine Metal Industry
13 Corporation, hereafter referred to as the "Corporation."

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15 The principal office of the Corporation shall be determined by its Board of
16 Directors. It may also establish such offices, branches, agencies or correspondents or
17 other units in the Philippines or abroad as its business operations may require.

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19 The Corporation shall have a term of fifty years from its creation hereof, which
20 shall be deemed renewed for an equal period unless sooner dissolved by law.
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Section 4. *Purposes and Powers.* The Corporation shall have the following purposes and powers:

- (a) To invest in the metal industry, as well as, in any activity related to metal resources development, and to set up or form business subsidiaries under the Batas Pambansa Blg. 68, or through the acquisition of the controlling interests of existing corporations, which may be necessary or contributory to the economic development of the country, or important in the public interest, or deemed convenient or incidental to the carrying on of any of the purposes of the Corporation, or which will promote the well-being of the Corporation;
- (b) To provide and maintain an adequate or increased supply at all times of metal products at competitive cost for domestic requirements and exports;
- (c) To reduce the excessive dependence of the country on imports of metal products;
- (d) To foster conditions of metal product development conducive to a balanced and sustainable growth of the economy.

Subject to governmental policy, the Corporation shall also have the following purposes and powers;

- (a) To enter into contracts with any person or entity, domestic or foreign, and with governments for the undertaking of the varied aspects of the metal industry, under such terms and conditions as it may deem proper and reasonable;
- (b) To purchase, hold, alienate, mortgage, pledge or otherwise dispose of the stocks, bonds, and other securities or evidences of indebtedness of any other corporation, association, firm or entity, domestic or foreign, and, while the owner or holder thereof, to exercise all the rights and powers of ownership, including the right to vote thereon for any purpose;
- (c) To hold lands, and acquire rights over mineral lands, as may be necessary to accomplish its purpose;
- (d) Subject to existing rights, to lease or contract for unappropriated public waters and foreshore and offshore areas, which, in the decision of the President of the Philippines, is essential to the exercise of the purposes of the Corporation, and the same shall be granted to the Corporation by the

proper government agency concerned, under such terms and conditions as may be mutually agreed upon between them;

- (e) To enter into any lawful arrangements for sharing profits, joint venture, union, interests, reciprocal concession or cooperation, with any person or corporation, association, partnership, syndicate or entity located in or organized under the laws of any authority, in any part of the world, in the carrying on of the business, which the Corporation is authorized to carry on, or any business or transaction deemed necessary in the carrying on of any of the purposes of the Corporation;
- (f) To acquire assets, real or personal, or interest therein, and encumber or otherwise dispose of the same, as it may deem proper, and necessary in the conduct of its business;
- (g) To determine its organizational structure, and the number and salaries of its officers and employees, in accordance with existing laws, rules and regulations;
- (h) To exercise the right of eminent domain as may be necessary for the purposes for which the Corporation is created, subject to existing provisions of law;
- (i) Subject to payment of the proper amount, to enter private lands for the purpose of conducting studies in connection with its purposes, powers and functions;
- (j) To acquire easement over public and private lands necessary for the purpose of carrying out any work essential to its purposes, powers and functions, subject to payment of reasonable considerations; and
- (k) To perform such corporate acts, and exercise such corporate functions authorized by the Batas Pambansa Blg. 68, not inconsistent with this Act, and such other acts necessary for the attainment of the purposes and objectives herein specified.

The preceding clause shall be construed and interpreted as both purposes and powers and the matters expressed in them shall, except as otherwise expressly provided, but in no wise limited by reference to or inference from the terms of any other clause, regarded as independent purposes and powers, and the enumeration of specific purposes and powers shall not be construed to limit or restrict in any manner the

meaning in general terms of the general powers of the Corporation, nor shall the expression of one thing be deemed to exclude not expressed, if it be of like nature.

Section 5. Governing Body. The Corporation shall be governed by a Board of Directors, hereinafter referred to as the "Board", which shall be composed of seven (7) members, namely, the Secretary of Environment and Natural Resources, the Secretary of Trade and Industry, the Secretary of Finance, the Secretary of Science and Technology, the Chairman of the Bangko Sentral ng Pilipinas, Chairman of the National Economic Development Authority, or their authorized representatives, and the President of the Corporation.

The President of the Corporation shall be appointed by the President of the Philippines.

The Secretary of Trade and Industry and the President of the Corporation shall be the Chairman and Vice-Chairman, respectively, of the Board. In the absence of the Chairman, the Vice-Chairman shall act as presiding officer of the Board.

The members of the Board shall act as such for the duration of the term of the Corporation.

The Board shall formulate the policies, which may be necessary or incidental to carry out the business of the Corporation, or to the exercise of its express and implied powers, or for the accomplishment of any of its purposes.

Section 6. Capital Stock. The Corporation shall have a capital stock divided into Two Hundred Million shares with a par value of Fifty Pesos each to be subscribed, paid for and voted as follows:

- (a) One Hundred Fifty Million shares be originally subscribed and paid for the Government of the Republic of the Philippines; and
- (b) The remaining shares of stock may be subscribed and paid for by the Government of the Republic of the Philippines or by government financial institutions.

The voting power pertaining to shares subscribed by the Government of the Republic of the Philippines shall be vested in the President of the Philippines, or in such person or persons as he may designate.

The voting power pertaining to shares of stock subscribed by the government financial institutions shall be vested in them.

148 **Section 7. Powers and Duties of the President.** The President, who shall be the chief
149 executive of the Corporation shall have the following powers an duties:

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- 151 (a) To prepare the agenda for the meetings of the Board, and to submit for the
152 consideration of the Board such policies and measures, as he believes
153 necessary to carry out the purpose and objectives of this Act;
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- 155 (b) To execute, administer and implement the policies and measures
156 approved by the Board;
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- 158 (c) To direct and supervise the operation and administration of the
159 Corporation;
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- 161 (d) To appoint and fix the compensation for all the employees, except the
162 officers, of the Corporation;
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- 164 (e) To represent the Corporation in all dealings with other offices, agencies
165 and instrumentalities of the government, and with all persons and other
166 entities, public or private, domestic or foreign; and
- 167
- 168 (f) To exercise such other powers and perform such other duties provided in
169 the by-laws and as may be vested in him by the Board.
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171 **Section 8. Legal Counsel.** The Office of the Government Corporate Counsel shall
172 be the *ex officio* legal counsel of the Corporation, and he may designate a representative
173 for that purpose.

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175 **Section 9. Auditor.** The Chairman of the Commission on Audit shall appoint a
176 representative, who shall be the Auditor of the Corporation, and such personnel as may
177 be necessary to assist said representative in the performance of his duties. The budget of
178 the office of the Auditor shall be appropriated by the Corporation, subject to the
179 approval of the Board. Such representative shall render a semestral report on the
180 financial condition and operations of the Corporation to the Chairman of the
181 Commission on Audit and the Board. The Chairman of the Commission on Audit shall
182 submit to the President of the Philippines an annual report covering the financial
183 conditions and operations of the Corporation. These auditing reports shall contain a
184 statement of the resources and liabilities including earnings and expenses, reserves and
185 profits, as well as losses, bad debts and such other facts which, under the auditing rules
186 and regulations, are considered necessary to accurately describe the financial conditions
187 and operations of the Corporation; provided, That before such reports are made, the
188 Corporation shall be given reasonable opportunity to examine the reports and make
189 exceptions to any criticisms of the Auditor of the Corporation or the Chairman of the

Commission on Audit, as the case may be, to point out, explain or answer any inaccuracies therein, if any, and to file a statement which shall be appended by the Auditor of the Corporation and the Chairman of the Commission on Audit in their respective reports.

The auditors of the business subsidiaries of the Corporation shall be appointed by their respective Boards of Directors.

Section 10. *Applicability of Civil Service Law and Other Laws.* The Corporation and its officers and employees shall be subject to the Civil Service Law, rules and regulations, as well as to all laws, decrees executive orders, circulars, rules and regulations pertaining to government-owned or controlled corporation and relating to government personnel benefits.

The provisions of the Corporation Law shall apply to the Corporation and its business subsidiaries insofar as not inconsistent with the provisions of this Act.

Section 11. *Loans; Guarantees; Issuance of Bonds.* Subject to the provisions of existing laws, rules and regulations, the Corporation is hereby authorized to contract loans, credits or any indebtedness from time to time from foreign governments, or any financial institutions or fund sources or any other entities, foreign or domestic, on such terms and conditions, as it shall deem appropriate for the accomplishment of its purposes, and to enter into and execute agreements and other documents specifying the said terms and conditions, as well as, do or perform any such acts as may be necessary in connection therewith.

The Corporation, upon the recommendation of the Secretary of Finance in consultation with the Monetary Board, and with the approval of the President of the Philippines, is hereby empowered to issue bonds or other securities.

Section 12. *Appropriation.* The sum of Seven Billion Five Hundred Million Pesos (P7,500,000,000.00) is hereby set aside initially and appropriated from the General Funds not otherwise appropriated, and the same shall be applied to the full payment of the subscription of the Government of the Republic of the Philippines referred to in Section 7, paragraph (a), of this Decree. Other subsequent requirements shall be contained in the General Appropriations Act. Releases from this appropriation shall be in accordance with a schedule to be determined by the Secretary of Finance, subject to the approval of the President of the Philippines.

Section 13. *Reports.* The Corporation shall, within three months after the end of every fiscal year, submit its annual report to the President of the Philippines. It shall likewise submit such periodic or other reports as may be required of its from time to time.

233 **Section 14. *Miscellaneous.*** All heads of Departments, Agencies, Offices and
234 instrumentalities of the National Government as well a political subdivisions are hereby
235 enjoined to extend full cooperation and assistance to the Corporation in the
236 implementation of the provisions of this Decree.
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238 **Section 15. *Separability Clause.*** Should any provision of this Decree be held
239 unconstitutional, no other provision hereof shall be affected thereby.
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241 **Section 16. *Repealing Clause.*** All laws, decrees, executive orders, administrative
242 orders, rules and regulations inconsistent herewith are hereby repealed, amended or
243 modified accordingly.
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245 **Section 17. *Effectivity.*** This Act shall take effect fifteen days after it publication in
246 the Official Gazette.
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248 Approved.