

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



SIXTEENTH CONGRESS

First Regular Session

House Bill No. 2770

INTRODUCED BY: REPRESENTATIVE PRYDE HENRY A. TEVES

EXPLANATORY NOTE

This bill hopes to put up a singular entity called the Philippine Trade Representative Office to principally handle the country's trade and investment agreements. It aims to promote greater accountability of our trade negotiators with regard to trade and investment agreements, more coherence and cohesiveness in our trade and investments negotiating strategy, involve Congress in formulating a negotiating mandate before any negotiations take place, put in place mandatory consultative mechanisms for greater participation of the private sector as well as civil society organizations in trade negotiations and to provide closer coordination between the Philippine Trade Representative, the various departments involved and Congress.

For all these very important reasons, passage of this bill is earnestly sought.


PRYDE HENRY A. TEVES

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th CONGRESS
First Regular Session

HOUSE BILL NO. **2770**

BY REP. PRYDE HENRY A. TEVES

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

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

SECTION 1. Title. – This Act shall be known as the “Charter of the Philippine Trade Representative Office”.

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

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

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

Moreover, Congress, as one of the three (3) branches of the government, has the 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 toward 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 seek 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) Nongovernment organizations refer to non-stock, nonprofit corporations organized under the laws of the Republic of the Philippines doing charitable, educational, religious, social, economic and other not-for-profit endeavors.

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.

SEC. 5. Qualifications and Limitations on Appointments. –

(a) Qualification. – 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; Disqualification. – 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 the 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 investment 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 stakeholders;

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

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

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

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

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

(h) Provide the necessary staff support to the Multi-Sectoral and Sub-Sectoral Advisory Committees and the Inter-Agency Coordinating Committee;

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

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

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

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

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

SEC. 7. Functions of the Philippine Trade Representative. – The Philippine Trade Representative may, for the purpose of carrying out the functions of the Trade Office:

- (a) Create the organizational structure of the Trade Office consistent with its mandate and functions provided in this Act and according to strategic needs, and review the structure regularly;
- (b) Head the Trade Office and exercise control and supervision over all its functions, activities and its organization;
- (c) Serve as the chief trade negotiator of the Philippines in international trade and investment agreements including, but not limited to, the World Trade Organization (WTO), regional, bilateral and plurilateral negotiations, in which the Philippines participates, and shall be responsible for the conduct of such;
- (d) Create sectoral and thematic desks that will receive and facilitate referral to appropriate agencies of complaints, information and concerns pertaining to trade and investment matters;
- (e) Chair the Inter-Agency Coordinating Committee on international trade and investments;
- (f) Monitor and enforce the implementation of Philippine international trade policy, including direct investment matters to the extent that these are related to international trade policy;
- (g) Coordinate with national agencies in the performance of functions, including the right to issue compulsory processes pursuant to

Section 15 of this Act;

- (h) Call upon and deputize, in times of trade policy formulation and negotiations, the national agencies and their personnel and correspondingly use the services of the deputized agency, whose functions are related to or affect international trade policy, including direct investment matters to the extent that these are related to international trade policy;
- (i) Co-chair the Multi-Sectoral Advisory Committee in its regular and special meetings; and
- (j) Perform such other functions inherent to the functions of the Philippine Trade Representative and as the President may direct pursuant to this Act.

SEC. 8. Ex Officio Positions and Functions of the Philippine Trade Representative. – The Philippine Trade Representative shall be entitled to the following ex officio positions and functions:

- (a) Senior representative on any body that the President may establish for the purpose of advising the President on overall economic policies in which international trade matters predominate; and

(b) Participant in all economic summits and other international meetings in which international trade is a major topic.

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

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

SEC. 10. Inter-Agency Coordinating Committee and Subcommittees – In connection with the performance of the functions, the Philippine Trade Representative shall, to the extent necessary for the proper administration and execution of the trade and investment agreements of the Philippines, draw upon the expertise of and consult with national agencies.

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

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

SEC. 11. Membership in the National Economic and Development Authority (NEDA) Board. – The Philippine Trade Representative shall be a member of the National Economic and 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 provisions 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 statistics, tariff and nontariff 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 nongovernment research institutions in research concerning trade and investment 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 noneconomic conditions, affecting Philippine products both in the export and domestic markets;
- (g) Perform other functions as may be provided by law or assigned by the Trade Representative or the Deputy Trade Representatives; and
- (h) Conduct or facilitate the conduct of trainings and courses for the benefit of the technical staff of the Trade Office and other government personnel directly or indirectly engaged in trade and investment policy work in order to build, improve and enhance the capacity and competence in trade and investment negotiations.

SEC. 14. The Legal Service. – The Legal Service shall have the following functions and responsibilities:

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

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

(g) Assist the Trade Office in ensuring that the rights and interests of the Republic of the Philippines are protected in the WTO agreement, other multilateral trade, regional, plurilateral and bilateral trade and investment agreements; and ensure that the counterpart countries comply with their obligations in the agreements;

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

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

SEC. 15. Issuance of Compulsory Processes. – Pursuant to Section 7 of this Act, the Trade Office, in aid of trade policy formulation and negotiations, shall have the power and authority to invite or summon by subpoena ad testificandum any public official, private citizen or any other person to testify before it, or require any person by subpoena duces tecum to produce before it such records, reports, documents or other materials as it may require. There shall be compliance within thirty (30) days to the subpoena issued; otherwise any failure to comply is punishable under Section 24 of this Act.

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

SEC. 17. The Multi-Sectoral Advisory Committee. – There is hereby created a Multi-Sectoral Advisory Committee, hereinafter referred to as the MSAC. The MSAC shall be composed of representatives of industries, agriculture, labor, small business, service industries, retailers and consumers and shall be broadly representative of key economic sectors and groups affected by trade.

Members of the MSAC and Subcommittees shall be appointed by the Philippine Trade Representative upon the endorsement of various nongovernment organizations and stakeholders. Members of the MSAC shall serve without either compensation or reimbursement of expenses.

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

SEC. 18. Duties and Functions of the MSAC. – The MSAC shall provide information and advice to the Philippine Trade Representative on trade and trade-related matters towards the

achievement of the economic goals defined in the 1987 Constitution that are aimed at balancing the interest of these various stakeholders with respect to:

- (a) Negotiating objectives and bargaining positions before entering into a trade and investment agreement;
- (b) The operation, implementation and monitoring of any trade and investment agreement once entered into;
- (c) Trade remedies, dispute settlements, noncompliance and/or violations to any trade and investment agreement; and
- (d) Other matters arising in connection with the development, implementation and administration of the trade and investment policy.

In addition, the MSAC shall:

- (1) Provide technical support to the Philippine Trade Representative by drawing upon the knowledge and expertise of the members;
- (2) Prior to any trade negotiations, participate in the development of the negotiation objectives and bargaining positions of the country and at the conclusion of negotiation for its trade agreement entered into, provide a report to the Philippine Trade Representative to form part of the latter's report to the President and Congress, pursuant to Section 6(f) hereof. The report of the MSAC shall include an assessment and evaluation of whether and to what extent the agreement promotes Philippine economic interests and achieves the applicable overall and principal negotiating objectives set forth;
- (3) Be allowed to accompany and advise the Philippine delegation in trade and investment negotiation missions; and
- (4) Recommend to the Philippine Trade Representative the participation of private sector representative to accompany the Philippine delegation in an observer capacity in trade negotiations.

SEC. 19. Meetings, Agenda and Staff Support. – The Philippine Trade Representative shall:

- (a) Preside over the MSAC, which will meet as needed at the call of the MSAC Chairman or the Philippine Trade Representative depending on various factors such as the level of activity of trade negotiations;
- (b) Call for a regular meeting of the MSAC during the first and third quarter of the year and may call for a special meeting as may be necessary depending on various factors such as the level of activity of trade negotiations;

- (c) Approve and set the agenda for all MSAC meetings; and
- (d) Provide the Secretariat and other necessary staff support for MSAC meetings.

SEC. 20. Sub-Sectoral Advisory Committee. – There is hereby created a Sub-Sectoral Advisory Committee, hereinafter referred to as the “SSAC”, to be defined by the Philippine Trade Representative for trade and investment policy formulation and negotiations.

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

Members of the MSAC and the SSAC shall be appointed by the Philippine Trade Representative upon the endorsement of various nongovernment organizations and stakeholders. Members of the said Committees shall serve without either compensation or reimbursement of expenses.

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

SEC. 21. Confidentiality Agreement. – The members of the MSAC and its Subcommittees shall:

- (a) Enter into a confidentiality agreement with the Trade Office; and
- (b) Comply with other requirements established by the Trade Office to protect from unauthorized disclosure all classified information and all information relating to trade policy formulation and negotiations.

SEC. 22. Joint Congressional Oversight Committee on Trade and Investment Matters. – There shall be a Joint Congressional Oversight Committee on Trade and Investment Matters, hereinafter referred to as the “Congressional Oversight Committee”, to which the Trade Office shall regularly report to ensure concurrence and authority regarding negotiating mandate and parameters, and shall comply immediately to any order of the Congressional Oversight Committee. The Congressional Oversight Committee shall be composed of five (5) Members from the Senate which shall include the Senate President, the Senate Majority and Minority Leaders, and five (5) Members from the House of Representatives which shall include the Speaker of the House and the Majority and Minority Leaders.

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

SEC. 23. Reportorial Requirements. – The Trade Office shall comply with the following:

- (a) Report to the Congressional Oversight Committee and to the MSAC, as herein created, any intention to negotiate any economic treaty, be it bilateral, regional or multilateral. At the minimum, the report shall contain the subject matter for negotiations and the general objectives of the government. The Trade Office shall update the Congressional Oversight Committee and the MSAC on the negotiations, including the offers and counteroffers of all the parties, and shall also notify the Congressional Oversight Committee and the MSAC of any tentative or final agreement of the parties;
- (b) Report at least twice a year and as may be directed by the President or the Congressional Oversight Committee and as may be requested by the MSAC on the developments of any international trade and investment negotiation and/or agreement; and
- (c) Submit a biannual report directly to the President, the Congressional Oversight Committee and the MSAC regarding the implementation, operation and effectiveness of any trade and investment agreement entered into, including the status of ongoing trade and investment negotiations in which the Philippines participates.

SEC. 24. Administrative Fines and Penalties. –

- (a) Noncompliance on the Issuance of Compulsory Processes. – Any person or entity who fails to comply to the subpoena issued by the Trade Office within the thirty (30)-day deadline shall suffer the penalty of imprisonment for a period of not less than six (6) months but not more than one (1) year or shall be imposed a fine of not less than One hundred thousand pesos (PHP100,000.00) but not more than Five hundred thousand pesos (PHP500,000.00), at the discretion of the court.
- (b) Violation of Confidentiality of Agreement. – Any person or entity who shall violate the confidentiality of agreement under this Act shall suffer the penalty of imprisonment for a period of not less than six (6) months but not more than one (1) year or shall be imposed a fine of not less than Two hundred fifty thousand pesos (PHP250,000.00) but not more than Five hundred thousand pesos (PHP500,000.00), at the discretion of the court. The Trade Office shall have the power to remove any member who violates this provision from membership in the MSAC.
- (c) Other Violations. – After due notice and hearing, the Philippine Trade Representative shall have the power to impose administrative fines against any person, organization or any other entity in such amount as it may be reasonable which in no case shall be less than Fifty thousand pesos (PHP50,000.00) but not more than Five million pesos (PHP5,000,000.00) for any violation of any provision under this Act.

SEC. 25. Transfer of Functions. – The functions of the Bureau of International Trade Relations under the Department of Trade and Industry (DTI), Attaches and Permanent Mission to the

WTO, the Association of Southeast Asian Nations (ASEAN) and United Nations International Organization (UNIO), and the trade negotiating and policy-making functions of the Tariff and Related Matters Committee (TRMC) are hereby transferred to the Trade Office.

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

SEC. 26. Transitory Provision. – The TRMC created under Section 6 of Executive Order No. 230, Series of 1987, together with the Technical Committee on WTO Matters, shall continue to function for six (6) months or until the Trade Office is set up, whichever comes earlier, after which they shall cease to function.

SEC. 27. Implementing Rules and Regulations. – The Trade Office shall, in consultation with the DTI, the Department of Agriculture, the Department of Foreign Affairs and the NEDA, issue the rules and regulations necessary to implement the provisions of this Act sixty (60) days from the date of appointment of the Philippine Trade Representative.

SEC. 28. Appropriations. – The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the Bureau of International Trade Relations under the DTI, Attaches and Permanent Mission to the WTO, the ASEAN, the 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 No. 230, Series of 1987 and relevant provisions of Executive Order No. 133, Series of 1987 are deemed modified, 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,