



Republic of the Philippines
House of Representatives
Quezon City



EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 0206

Introduced by Representative Jose Enrique S. Garcia III

EXPLANATORY NOTE

With a rapidly changing economic and political landscape within the Asia-Pacific region, the Philippines must properly anticipate and prepare for the projected strategic needs of the country's defense sector.

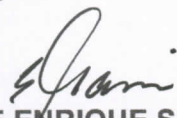
While the country has made great strides in developing our uniformed personnel, much still needs to be done in the area of technology and arms capability building and self-reliance. Drawing from the experience of our neighbors and allies in the region, we believe that strengthening our domestic defense industry is necessary for us to achieve self-reliance.

It is essential, then, for us to push for policy measures that would create an enabling environment for private and public sector collaboration geared towards maximizing the yet to be realized potential of the country's domestic defense industry.

The bill aims to realize this goal. This legislative measure will introduce policy reforms that would (1) strengthen the Department of Defense's (DND) capabilities to support the development of the defense industry (2) provide incentives for firms within the industry to locate and grow domestically, and (3) streamline government processes in support of the aforementioned.

If we want to be able to keep up with our neighbors in the region, it is imperative that we push for the passing of this bill as soon as possible.

The approval of this measure, then, is earnestly sought.


REP. JOSE ENRIQUE S. GARCIA III
2nd District, Bataan



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AN ACT PROVIDING FOR THE DEVELOPMENT OF A NATIONAL DEFENSE INDUSTRY THROUGH THE STRENGTHENING AND REVITALIZING OF THE SELF RELIANT DEFENSE POSTURE (SRDP) PROGRAM, INCENTIVIZING IN-COUNTRY ENTERPRISES, RATIONALIZING DEFENSE ACQUISITION, AND CREATING THE OFFICE OF THE UNDERSECRETARY FOR DEFENSE TECHNOLOGY RESEARCH AND INDUSTRY DEVELOPMENT UNDER THE DEPARTMENT OF NATIONAL DEFENSE, AND PROVIDING FUNDS THEREOF

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

3 **SECTION 1. Short Title.** – This Act shall be known as the “Philippine Defense Industry
4 Development Act of 2019” or the PDIDA for brevity.

5 **SECTION 2. Declaration of State Policy.** – The State declares the development of the National
6 Defense Industry as an indispensable element of national defense. Towards this end, the State
7 shall recognize the following:

- 8 1. The vital role of the Industry in nation-building and that with respect to
9 government acquisition and incentives, the Industry is a class on its own that
10 must be prioritized;
- 11 2. The necessity of an independent and self-reliant sovereign state, capable of
12 providing its own resources for defense, security and national survival as a
13 matter of national strategy, specifically during war and other national
14 emergencies;
- 15 3. The consistency of the Filipino First Policy in developing national defense;
- 16 4. The indispensability of the active participation of and collaborative partnerships
17 with the private sector in the strengthening of national defense of the country;
18 and,
- 19 5. The capability of the Philippines in ensuring the adequate supply of affordable,
20 globally-competitive, quality and accessible defense implements, equipment,
21 machinery, systems and solutions, and in giving priority to stimulating and
22 maintaining defense technology research, science and technology education,
23 training and services, and defense industry development.

1 For this purpose, the Government shall strengthen and revitalize the Self Reliant Defense
2 Posture (SRDP) Program, incentivize private sector participation in the Industry, rationalize
3 defense acquisition, and, create the Office of the Undersecretary for Defense Technology
4 Research and Industry Development which are all intended to foster the progressive growth of
5 the Industry and hasten defense self-sufficiency of the country.

6 Further, the State recognizes the important role of science and technology, academic research
7 and development institutions, and technology transfer for developing effective defense
8 capabilities to respond and accomplish defense missions and to drive genuine modernization.

9 **SECTION 3. Definition of Terms.** – For purpose of this Act, the terms below shall be construed
10 to mean, except when explicitly indicated or where the context clearly indicates otherwise, as
11 follows:

12 **Acquisition** shall refer to the bureaucratic management and procurement process
13 dealing with the investment of the country in technologies, programs and product
14 support necessary to support national defense and security and support its armed
15 forces. It shall include the acquiring of raw material, critical components and materiel.

16 **AFP** shall refer to the Armed Forces of the Philippines.

17 **Board** shall refer to the Board of Investments.

18 **Countertrade** shall refer to international trade by exchange of goods rather than by
19 currency purchase.

20 **Critical Components** shall refer to components, subsystems, systems, and related
21 special tooling and test equipment essential to the production, repair, maintenance, or
22 operation of weapon systems or other items of equipment identified as being essential
23 to the execution of any National Defense and National Security strategy.

24 **Department** shall refer to the Department of National Defense.

25 **DOF** shall refer to the Department of Finance.

26 **GPPB** shall refer to the Government Procurement Policy Board.

27 **Highest Rated Bid** shall refer to the offer with the highest calculated rating based on
28 the criteria/parameters not limited to capability, quality, timeliness of delivery, life cycle
29 cost, after-sales support, transfer of technology, warranty, perquisites and price.

30 **In-country Enterprises** shall refer to (1) Filipino-owned enterprises engaged in the
31 manufacturing, servicing and operation of materiel in the Philippines, or (2) foreign-
32 owned enterprises engaged in the manufacturing, servicing and operation of materiel
33 provided however that such foreign-owned enterprises shall locate a substantial portion
34 of their production within the Philippines.

35 **Industry** shall refer to the National Defense Industry.

36 **Integrated Logistics Support** refers to an integrated and iterative process for
37 developing Materiel and a support strategy that optimizes functional support, leverages
38 existing resources, and guides the system engineering process to quantify and lower
39 life cycle cost and decrease the logistics footprint, making the system easier to support.

Manufacturing refers to the process of converting raw materials, components, or parts into finished Materiel, whether using manpower, machines or a combination thereof.

Materiel shall refer to military technology, materials and equipment, including but limited to arms and ammunition and combat clothing.

Minimum Local Content refers to the minimum percentage of intermediate goods used in the manufacturing processes to be sourced from in-country enterprises.

National Defense refers to the policies, measures and initiatives intended to provide the necessary protection of the State against external and internal threats.

National Security refers to the policies, measures and initiatives intended to protect the interests of the country and to protect the State from all forms of crises.

NEDA shall refer to the National Economic and Development Authority.

Operating refers to the process of functioning or operating of Materiel or facilities, utilities and appurtenances thereto which are necessary for the manufacture, servicing or operating of Materiel or components.

Plan shall refer to the Investment Priorities Plan as provided in the Omnibus Investment Code.

President shall refer to the President of the Republic of the Philippines.

Private Sector refers to the part of the country's economic system that is not under direct government control.

Program shall refer to the SRDP.

Raw Materials refers to the basic material from which Materiel is manufactured.

Secretary shall refer to the Secretary of National Defense.

Servicing refers to the process of maintaining, repairing or overhauling Materiel.

SLCC shall refer to the Single Largest Completed Contract requirement as provided in the implementing rules and regulations of Republic Act No. 9184.

SRDP shall refer to the Self Reliant Defense Posture as provided under pertinent laws.

SECTION 4. *The National Defense Industry.* – For the interest of the nation, the National Defense Industry shall be developed in accordance with the following:

- a. The dependence of the country on foreign support for defense requirements shall be limited in accordance with this Act and/or the policies approved by the President;
- b. To develop the defense capability of the country, the State shall rely primarily on and give preference to developing In-Country Enterprises, allocating substantial resources and manpower to defense research, utilizing to the fullest the country's natural resources as the source of the country's defense needs, and providing relevant technical and financial assistance to the private sector;
- c. To develop the defense capability of the country, the State shall rely on materiel produced, manufactured or otherwise created locally;

- 1 d. To develop the defense capability, the State shall only use materiel from foreign
2 sources when such materiel cannot be locally produced, manufactured or otherwise
3 created; Provided that, importation from such foreign sources shall be for the
4 ultimate objective of acquiring technology for the production of such unavailable
5 materiel;
- 6 e. In order to reduce foreign exchange outflow, generate local employment
7 opportunities and enhance technology transfer to the Philippines, the Secretary
8 shall, as far as practicable, incorporate in each agreement involving the Government
9 and the manufacturing, servicing or operation of materiel special foreign exchange
10 reduction schemes and countertrade, in-country manufacture co-production, or
11 other innovative arrangements or combinations thereof; and,
- 12 f. The Program shall be developed in accordance with the provisions of this Act.

13 **SECTION 5. *Incentives.*** – (A) Any provision of law to the contrary notwithstanding, foreign and
14 local enterprises engaged or proposing to engage in the manufacture, servicing and/or
15 operation of materiel for the Government may be registered and may avail of the incentives
16 under and subject to the conditions in Executive Order No. 226 otherwise known as the
17 Omnibus Investments Code; Provided that, notwithstanding Article 27 thereof, manufacturing,
18 servicing and/or operation of materiel shall be included in the Investment Priorities Plan every
19 year by operation of law after the effectivity of this Act until otherwise removed by the Board or
20 the President; Provided further that, the removal of the manufacturing, servicing and/or
21 operation of materiel from the Plan subsequent to the effectivity of this Act shall not be
22 interpreted as a bar or restriction on the Board from later including the manufacturing, servicing
23 and/or operation of materiel in the Plan.

24 In the interest of National Security, the Board shall adopt a special procedure in the processing
25 of applications for registration by enterprises in the Industry and offering goods or services to
26 the government under the Program.

27 (B) Government financial institutions are highly encouraged to support the Industry by
28 formulating and extending financial products that would benefit its hastened development.

29 (C) In addition to the incentives provided in E.O. 226, foreign and local enterprises engaged in
30 the manufacture, servicing and/or operation of materiel registered with the Board shall enjoy
31 exemption from customs duties and national internal revenue taxes payable on the importation
32 of raw materials and critical components by registered enterprises for the purpose of producing
33 materiel.

34 **SECTION 6. *Rationalization of Defense Acquisition.*** – A. Any provision of law to the contrary
35 notwithstanding, the Secretary, in behalf of the Government, is hereby authorized to enter into
36 contracts, under such terms and conditions as may be agreed upon, with any natural or juridical
37 person, with or without public bidding, for the manufacture, servicing or operation of materiel or
38 components thereof, facilities, utilities and appurtenances thereto which are necessary for the
39 manufacture, servicing or operating of such materiel or components thereof necessary for
40 national defense; Provided that, in the exercise of such authority, the Secretary shall comply
41 with the reportorial requirements under Section 13 of this Act.

42 B. Any provision of law to the contrary notwithstanding, contracts for the manufacture, servicing
43 or operation of materiel or components thereof, facilities, utilities and appurtenances thereto
44 which are necessary for the manufacture, servicing or operating of such materiel or components

1 thereof necessary for national defense which are determined by the Secretary as not requiring
2 public bidding shall only be awarded to in-country enterprises; Provided that, such materiel or
3 components thereof, facilities, utilities and appurtenances thereto can be locally produced,
4 manufactured or otherwise created.

5 C. In the event that public bidding is required by the Secretary, and the manufacture, servicing
6 or operation of materiel or components thereof, facilities, utilities and appurtenances thereto
7 which are necessary for the manufacture, servicing or operating of such materiel or components
8 thereof necessary for national defense cannot be locally produced, manufactured or otherwise
9 created, and whenever several bidders shall participate in the bidding for the, in the evaluation
10 of the criteria on price, when comparing foreign enterprises with in-country enterprises:

- 11 1. In the event a public bidding utilizes the standard of lowest and calculated and
12 responsive bid, bids of in-country enterprises shall be considered as having a
13 price less than that proposed by foreign enterprises as long as such bids shall
14 not be more than fifteen percent (15%) in excess of the bid of such foreign
15 enterprise; and,
- 16 2. In the event a public bidding utilizes the standard of highest rated bid, bids of in-
17 country enterprises shall be considered as having won the criteria of price as
18 long as its bid shall not be more than fifteen percent (15%) in excess of the bid
19 of such foreign enterprise.

20 D. In the event that public bidding is required by the Secretary, and the manufacture, servicing
21 or operation of materiel or components thereof, facilities, utilities and appurtenances thereto
22 which are necessary for the manufacture, servicing or operating of such materiel or components
23 thereof necessary for national defense cannot be locally produced, manufactured or otherwise
24 created, and only foreign enterprises participate, the ultimate objective of the Department will
25 be technology transfer and the acquiring of knowledge for eventual local production.

26 E. Nothing in this Act will prohibit or restrict lawful government to government transactions for
27 the manufacture, servicing or operation of materiel or components thereof, facilities, utilities and
28 appurtenances thereto which are necessary for the manufacture, servicing or operating of such
29 materiel or components thereof necessary for national defense.

30 F. In Section 5(C), 5(D) and 5(E), the Department in consultation with representatives of in-
31 country enterprises will issue reasonable regulations on the minimum local content for all
32 defense-related acquisitions. The Department may consult with other government agencies to
33 determine such minimum local content.

34 Further, in order to support the economic and employment generation thrusts of the country, all
35 defense acquisitions requiring the engagement and/or hiring of civilian labor shall mandatorily
36 require that all labor needs be sourced from local sources and shall, as far as practicable, be
37 Filipino.

38 G. In Section 5(C), 5(D) and 5(E), Integrated Logistics Support must be incorporated in all
39 contracts concerning defense-related acquisitions.

40 **SECTION 7. Multi-Year Contracts and Other Contractual Arrangements.** – For the purpose of
41 acquisition of materiel, notwithstanding existing laws to the contrary, and subject to Section 13
42 of this Act, the Department and its bureaus shall be authorized to enter into multi-year contracts
43 and other multi-year contractual arrangements; Provided that, Congress shall, upon issuance

1 of a multi-year obligation authority by the DBM, make the corresponding appropriation for the
2 ensuring fiscal years; Provided further that, the Department, in consultation with DBM shall
3 issue implementing guidelines to ensure consistency with the Revised AFP Modernization
4 Program and this Act; Provided further that, understanding that the absence of multi-year
5 contracts is a primary reason for the poor development of the Industry, the DBM shall cooperate
6 with the Department in expediting the issuance of multi-year obligation authorities as necessary;
7 Provided finally that, the Department and its bureaus are directed to coordinate and to conduct
8 acquisition planning for the purpose of implementing multi-year contractual arrangements and
9 other multi-year obligations.

10 **SECTION 8. *Performance Undertakings.*** – The DOF is authorized to recognize the obligations
11 of the Department and the its bureaus as regards the acquisition of materiel as obligations of
12 the Republic of the Philippines and to undertake to pay the same in the event of non-payment
13 by the Department and its bureaus.

14 **SECTION 9. *Countertrade.*** – Countertrade for defense-related acquisition shall be significant,
15 meaningful and must be of benefit to the Industry.

16 **SECTION 10. *Exemption from SLCC.*** – In-country enterprises participating in the acquisition of
17 materiel by the Department and its bureaus shall be exempt from the SLCC requirement upon
18 effectivity of this Act.

19 **SECTION 11. *Acquisition System.*** – Subject to the provisions of this Act, the system and
20 procedures for acquisition of materiel, with or without public bidding, shall be in accordance with
21 a special law on defense-related procurement; Provided that, Republic Act No. 9184 or any
22 subsequent general law on procurement shall apply suppletorily; Provided further that, the
23 Department and its bureaus, in consultation with the DBM and the GPPB, shall strengthen their
24 systems and procedures for acquisition of materiel under this Act.

25 **SECTION 12. *Creation of the Office of the Undersecretary for Defense Technology Research***
26 ***and Industry Development*** – There is created in the Department an Office of the Undersecretary
27 for Defense Technology Research and Industry Development directly under the Secretary. The
28 Office shall be headed by an officer with the rank of Undersecretary, assisted by an Assistant
29 Secretary and supported by at least three (3) directors with the equivalent rank of Director IV.
30 The Office will be charged with the responsibility of managing and administering a databank for
31 analysis, conducting research and development and technology transfer, facilitating defense
32 industry promotion, establishing public-private partnerships, and setting up domestic and
33 foreign collaborations, and advising the Secretary on all matters pertaining to the development
34 of the National Defense Industry in accordance with this Act; and recommending policies, rules
35 and regulations to the Secretary for the development of the National Defense Industry and the
36 implementation of this Act. The Undersecretary, Assistant Secretary and Directors shall be
37 appointed by the President of the Philippines.

38 **SECTION 13. *Reporting and Oversight.*** – The Secretary shall, not later than the end of the first
39 quarter of the succeeding year, submit to the President and Congress:

- 40 1. An annual report on the acquisitions made under this Act; and,
- 41 2. Copies of the multi-year contracts and other agreements entered into by the
- 42 Department and its bureaus.

Pursuant to its constitutional duties, the Executive Department, particularly the NEDA, the Commission on Audit, and the Congress shall discharge oversight functions, to wit:

1. The NEDA shall conduct annual review of the status of all defense-related acquisitions via the authority exercised by the Secretary in Section 6 of this Act, identify causes of delays, reasons for bottlenecks, cost overruns, both actual and prospective, and continued viability, and report to Congress not later than June 30 of each year;
2. The Commission on Audit shall conduct an audit on each ongoing, and completed acquisition and report to Congress not later than June 30 each year; and,
3. There shall be a Congressional Oversight Committee composed of the Chairmen of the Committee on Ways and Means of both Senate and House of Representatives who shall serve as Co-Chairmen of the Oversight Committee, the Chairmen of the Committee on National Defense and Security of both Senate and House of Representatives who shall serve as Co-Vice-Chairmen, four (4) members each from the Senate and the House representing the majority and two (2) members each from the Senate and the House representing the minority to be designated by the leaders of the majority and minority in the respective chambers.

SECTION 14. *Promotion and Marketing Support.* – The Government shall promote the export of locally-made materiel and the in-country enterprises to other countries, and is encouraged to provide financial marketing support for the purpose of such promotion.

SECTION 15. *Cooperation of Government Agencies.* – The DBM, DOF, Board, GPPB and other government agencies are enjoined to support the provisions of this Act.

SECTION 16. *Appropriation.* – Initial funding of One Billion Pesos (P1,000,000,000.00) shall be appropriated to the Department for the purpose of implementing this Act. Subsequent funding shall be included in the General Appropriations Act.

SECTION 17. *Repealing Clause.* – Sections 1 and 2 of Presidential Decree No. 415, as amended by Presidential Decree No. 1081 is hereby repealed.

The following laws, orders and regulations are hereby modified or supplemented, as the case may be, in accordance with this Act:

1. An exception is hereby made to Government Procurement Policy Board Resolution No. 06-2003 in relation to its amendment to Section 1 of Presidential Decree No. 415;
2. An exception is hereby made to Republic Act No. 10667 otherwise known as the Philippine Competition Law in relation to its repeal of Section 4 of Commonwealth Act No. 138;
3. An exception is hereby made to Republic Act No. 9184 otherwise known as the Government Procurement Reform Act insofar as it covers procurement of materiel;
4. An exception is hereby made to Republic Act No. 1884 insofar as the exercise of the responsibility of the Office of the Undersecretary of Defense for Munitions in research and development; and,
5. Section 5 of Republic Act No. 10349 insofar as it amends Section 9 of Republic Act No. 7898 is hereby supplemented.

1 Apart from the foregoing, all provisions of existing laws, orders, and regulations contrary to or
2 inconsistent with this Act are hereby repealed or modified accordingly.

3 **SECTION 18. *Role of the GPPB.*** – The GPPB shall continue to fulfill its functions as provided
4 in Republic Act No. 9184 subject however to the provisions of this Act; Provided that, in no case
5 shall the GPPB interpret Republic Act No. 9184 or any subsequent general law on procurement
6 as overriding any of the provisions of this Act. The Secretary shall continue to serve as a
7 member of the GPPB.

8 **SECTION 19. *Rule of Interpretation*** – Rights and obligations existing on the date of effectivity
9 of this Act and arising out of contracts shall be governed by the original terms and conditions of
10 said contracts or the law in force at the time such rights were vested.

11 **SECTION 20. *Implementing Rules and Regulations; Supplementary Regulations.*** – Subject to
12 the provisions of this Act, the President thru the Secretary is authorized to implement this Act,
13 formulate and amend, whenever necessary, the implementing rules and regulations and
14 standard forms necessary for the implementation of this Act, and issue supplemental
15 regulations to hasten and facilitate the implementation of this Act.

16 **SECTION 21. *Separability Clause.*** – If any provision of this Act shall be held unconstitutional
17 or invalid, the other provisions not otherwise affected shall remain in full force and effect.

18 **SECTION 22. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days from its
19 publication in the Official Gazette or at least two (2) newspapers of national circulation.

20
21 Approved.
22