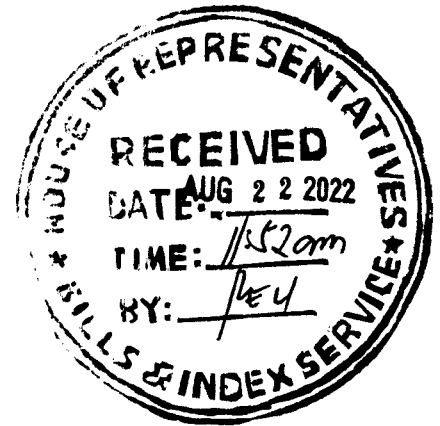


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES

H. B. No. 3881



Introduced by Representative Ralph G. Recto

AN ACT
STRENGTHENING AND REVITALIZING THE PHILIPPINE SELF-RELIANT
DEFENSE POSTURE PROGRAM, DEVELOPING THE PHILIPPINE NATIONAL
DEFENSE INDUSTRY, PROVIDING FUNDS THEREFOR, AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

A national defense industry is a vital asset not only in the development of a credible defense program, but also in terms of maintaining the independence of a country's foreign policy. It ensures that states have the wherewithal to deter or defend against foreign aggression, to avoid overdependence on other states, and to mitigate security-related vulnerabilities, among others. It also serves other critical functions such as research and development, innovations management, foreign currency reserve conservation, and employment generation, among others.

The complexity and inimitability of defense acquisition also provides a strong impetus to develop a national defense industry. Factors such as longer production time frames, limited number of prospective clients, and convoluted economic and strategic considerations have adversely impacted defense acquisition programs of the government such as the Armed Forces of the Philippines Modernization Program. A functional defense industry in the country would have addressed these concerns by allowing the government to define its defense requirement, which would then be produced by enterprises located in the country.

This proposed measure is a recognition of the noble intents of House Bill No. 10453, which was approved by the House of Representatives in the Eighteenth Congress, as well as of similar bills filed in the Nineteenth Congress, namely: Senate Bill No. 304 by Sen. Juan Miguel Zubiri, House Bill No. 1616 by Rep. Albert Garcia and House Bill No. 3393 by Rep. Raul Tupas.

This bill seeks to address stumbling blocks to the modernization of our security sector and to achieve our defense and security objectives by revitalizing the Self-Reliant Defense Posture Program (SRDP) and ushering the development of a national defense industry in the country. Drawing from the lessons learned from the SRDP and the AFP Modernization program, the proposed measure aims to assist in the development of a national defense industry through the extension of incentives and other forms of interventions, thereby relieving in-country enterprises from the financial burden of bureaucratic compliance and allowing them to channel their resources into the fulfillment of Philippine defense requirements. This bill likewise seeks to rationalize the government requirements for procuring its defense and military requirements, improving not only the viability of establishing in-country defense enterprises, but also the ability of the government to secure goods and services it requires.

Ultimately, it is hoped that through this intervention, the country can bring its military and defense sector to a level where it can effectively and fully perform its constitutional mandate to uphold the sovereignty and territorial integrity, and preserve the patrimony of the Republic of the Philippines.

In view of the foregoing, the approval of this bill is earnestly sought.



RALPH G. RECTO

/mdg

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

1 Section 1. *Short Title.* – This Act shall be known as the “Philippine Defense
2 Industry Development Act”.

3 Sec. 2. *Declaration of Policy.* – It is hereby declared a policy of the State to
4 develop and maintain an independent and credible national defense by strengthening
5 and revitalizing the country’s Self-Reliant Defense Posture Program. Towards this end,
6 cognizant of the indispensable role of the private sector in national development, and
7 the constitutional authority to establish and operate vital industries in the interest of
8 national defense, the State shall promote the development of a national defense
9 industry and its in-country capacity to manufacture and produce affordable and high-
10 quality military materials, equipment, and technology through the grant of support
11 and incentives to qualified enterprises, the rationalization of the procurement
12 requirements of defense acquisitions, and the provision of marketing and promotion
13 assistance to in-country defense enterprises, among others.

14 Sec. 3. *Definition of Terms.* – For the purposes of this Act:

15 (a) *Countertrade* shall refer to international trade by exchange of goods rather
16 than by currency purchase;

1 (b) *Defense Acquisition* shall refer to the process of securing equipment,
2 weapons and weapons systems, technology, services, and facilities for
3 defense and military purposes;

4 (c) *In-country Enterprise* shall refer to a Filipino-owned enterprise engaged in
5 the manufacturing, servicing and operation of materiel in the Philippines, or
6 to a foreign-owned enterprise engaged in the manufacturing, servicing, and
7 operation of materiel that has located a substantial portion of its production
8 activities within the Philippines;

9 (d) *Materiel* shall refer to military technology, materials and equipment,
10 including arms and ammunitions, and combat clothing;

11 (e) *Minimum Local Content* shall refer to the minimum percentage of
12 intermediate goods used in the manufacturing processes to be sourced from
13 in-country enterprises; and

14 (f) *National Defense Industry* shall refer to an industry composed of public
15 organizations and private entities involved in research, development,
16 production, manufacturing, operation, maintenance and servicing of military
17 equipment, supplies, machineries, facilities and technology.

18 Sec. 4. *Self-Reliant Defense Posture Program*. – The Self-Reliant Defense
19 Posture Program is hereby reinstituted and strengthened as a mechanism to realize
20 the goal of developing and maintaining an independent and credible national defense
21 by undertaking the development of a national defense industry.

22 Sec. 5. *National Defense Industry Development*. – The Government shall, in
23 partnership with the private sector, engage in the development of the domestic
24 capability to fulfill the country's defense requirements. The development of the
25 national defense industry shall be guided by the following principles:

26 (a) Recognition of the role of a national defense industry in realizing an
27 independent and self-reliant sovereign state capable of providing its own
28 resources for defense, security, and national survival;

29 (b) Reduction of dependence on foreign support for the acquisition of materiel
30 and other defense requirements;

31 (c) Reliance on and extension of preferential treatment to the development of
32 in-country enterprises, including the allocation of human and material

- resources to defense research and development and provision of relevant technical and financial assistance to qualified private sector entities;
- (d) Maintenance of a credible defense through the acquisition of locally manufactured materiel;
- (e) Restriction of importation of materiel to those which are not manufactured locally and to those needed to develop local materiel production capability;
- (f) Inclusion of special arrangements in defense-related contracts entered into by the Government, including, but not limited to, special foreign exchange reduction, countertrade option, and in-country manufacturing; and
- (g) Such other principles to be identified by the Department of National Defense (DND) in accordance with this Act.

Sec. 6. Provision of Incentives to Qualified Enterprises. – Any provision of law to the contrary notwithstanding, local and foreign enterprises engaged or proposing to engage in manufacturing, operation, maintenance or servicing of materiel for the Government may register and avail of the incentives under Title XIII of the National Internal Revenue Code of 1997, as amended, subject to the conditions and qualifications set forth in the Strategic Investment Priority Plan.

Sec. 7. Credit Support. – Any provision of law to the contrary notwithstanding, local and foreign enterprises engaged or proposing to engage in manufacturing, operation, maintenance or servicing of materiel for the Government shall be entitled to a preferential treatment and expedited processing of applications for loans and other financial products from government financial institutions.

Sec. 8. Rationalization of Defense Acquisition. – Any provision of law to the contrary notwithstanding, the DND is hereby mandated to establish a liberalized mode of procurement for the manufacturing, operation, maintenance or servicing of materiel or components thereof, including the facilities, utilities and appurtenances thereto necessary for national defense, subject to the following conditions:

- (a) The liberalized procurement modality to be established by the DND shall be subject to the approval of the Government Procurement Policy Board;
- (b) Contracts for the procurement of materiel or components thereof, facilities, utilities and appurtenances thereto that can be locally produced, manufactured or otherwise created shall only be awarded to in-country

enterprises: *Provided*, That such contract shall be exempt from the Single Largest Completed Contract requirement as provided in the implementing rules and regulations of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act;

(c) Contracts for the procurement of materiel or components thereof, facilities, utilities and appurtenances thereto that cannot be locally produced, manufactured or otherwise created shall be subject to public bidding: *Provided*, That in the event a public bidding utilizes the standard of lowest calculated and responsive bid, the bids of in-country enterprises shall be considered as having a price less than those proposed by foreign enterprises so long as such bids shall not be more than fifteen percent (15%) in excess of the bids of such foreign enterprises: *Provided, further*, That in the event a public bidding utilizes the standard of highest rated bid, the bids of in-country enterprises shall be considered as having won the criteria of price so long as such bids shall not be more than fifteen percent (15%) in excess of the bid of such foreign enterprises;

(d) The terms of reference for public bidding for the procurement of materiel or components thereof, facilities, utilities and appurtenances thereto that cannot be locally produced, manufactured or otherwise created shall include, whenever possible, provisions in the contract for the acquisition and transfer of technology and knowledge and generation of local expertise;

(e) Logistics support must be incorporated in all contracts on defense-related acquisitions;

(f) A minimum local content shall be required from all defense-related acquisitions, including those involving government-to-government transactions: *Provided*, That the DND shall, in consultation with government agencies and in-country enterprises concerned, issue the necessary regulations for the determination of the minimum local content to be required from defense-related acquisitions; and

(g) Nothing in this Act shall prohibit or restrict lawful government-to-government transactions for the manufacture, servicing or operation of

1 materiel or components thereof, facilities, utilities and appurtenances
2 thereto, which are necessary for national defense.

3 *Sec. 9. Adoption of Countertrade Agreements in Defense-Related Acquisition.*

4 – The Government shall, whenever feasible, enter into countertrade agreements in
5 defense-related acquisitions: *Provided*, That countertrade agreements shall ensure fair
6 exchange of goods, protection of local and in-country enterprises, reduction of trade
7 deficits, and effective management of public debt and debt repayment.

8 *Sec. 10. Provision of Promotion and Marketing Support.* – The government shall
9 promote the export of locally-made materiel and services produced and provided by
10 in-country enterprises to other countries, and shall provide financial and marketing
11 support for the purpose of such promotion.

12 *Sec. 11. Creation of the Office of the Undersecretary for Defense Technology*
13 *Research and Industry Development.* – There is hereby created in the DND an Office
14 of the Undersecretary for Defense Technology Research and Industry Development
15 (ODTRID). The ODTRID shall be headed by an officer with the rank of
16 Undersecretary, assisted by an Assistant Secretary, and supported by at least three
17 (3) directors with the equivalent rank of Director IV, all of whom shall be appointed
18 by the President of the Philippines.

19 The ODTRID shall be responsible for managing and administering a databank
20 for analysis, conducting research and development and technology transfer,
21 facilitating defense industry promotion, establishing public-private partnerships,
22 setting up domestic and foreign collaborations, and providing advice and
23 recommendations on policies, rules and regulations to the Secretary on all matters
24 pertaining to the development of the national defense industry and the
25 implementation of this Act.

26 *Sec. 12. Performance Undertakings.* – The DOF shall recognize the obligations
27 of the DND and its bureaus with respect to acquired materiel as obligations of the
28 Republic of the Philippines and to undertake to pay the same in the event of non-
29 payment by the DND and its bureaus.

30 *Sec. 13. Reportorial Requirements.* – The DND shall submit to the President
31 and Congress a report that contains the following information:

32 (a) Defense-related acquisitions made pursuant to this Act;

1 (b) Details of the multi-year contracts and other agreements entered into by
2 the DND and its bureaus; and

3 (c) Other pertinent information in relation to the implementation of this Act.

4 Sec. 14. *Congressional Oversight.* – There shall be a Congressional Oversight
5 Committee to monitor and evaluate the implementation of this Act. The Congressional
6 Oversight Committee shall be composed of the Chairperson of the Senate Committee
7 on National Defense and Security, Peace, Unification and Reconciliation and the
8 Chairperson of the House Committee on National Defense and Security, who shall
9 serve as Co-Chairpersons of the Oversight Committee; the Chairpersons of the
10 Committee on Ways and Means of both Senate and House of Representatives who
11 shall serve as Co-Vice-Chairpersons; four (4) members each from the Senate and the
12 House of Representatives representing the majority; and two (2) members each from
13 the Senate and the House of Representatives representing the minority to be
14 designated by the leaders of the majority and minority in their respective chambers.

15 Sec. 15. *Appropriations.* – The amount necessary for the effective
16 implementation of this Act shall be charged to the appropriations of the Department
17 of National Defense under the current General Appropriations Act. Thereafter, such
18 sum as may be necessary for its continued implementation shall be included in the
19 annual General Appropriations Act.

20 Sec. 16. *Implementing Rules and Regulations.* – Within ninety (90) days from
21 the effectivity of this Act, the DND and the Office of the President shall, in consultation
22 with the DOF and the Department of Budget and Management, promulgate the
23 necessary rules and regulations for its effective implementation.

24 Sec. 17. *Separability Clause.* – The provisions of this Act are hereby declared
25 to be separable. If any provision of this Act shall be held unconstitutional, the
26 remainder of the Act not otherwise affected thereby shall remain in full force and
27 effect.

28 Sec. 18. *Repealing Clause.* – All laws, executive orders, rules and regulations,
29 or parts thereof, inconsistent herewith are hereby repealed, amended or modified
30 accordingly.

1 Sec. 19. *Effectivity Clause.* – This Act shall take effect within fifteen (15) days
2 from its publication in at least two (2) national newspapers of general circulation or in
3 the *Official Gazette*.

 Approved,