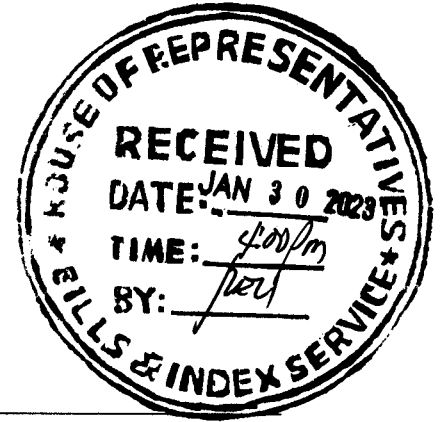


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

NINETEENTH CONGRESS
First Regular Session

House Bill No. 6975



Introduced by **HON. NICANOR M. BRIONES**
Representative, AGAP Party List

EXPLANATORY NOTE

The Anti-Agricultural Smuggling Act was enacted into law in 2016. However, since its implementation, the prosecution of suspected smugglers is dismal. The incidence of smuggling in the country remains alarming. The unusual trends in the volume of importation of agricultural products in the past year, particularly livestock and poultry, indicate the possibility of rampant misdeclaration and other irregularities in importation.

The 1987 Constitution mandates the State to promote social justice in all phases of national development. Moreover, the State shall develop a self-reliant and independent national economy effectively controlled by Filipinos and shall protect Filipino enterprises against unfair foreign competition and trade practices.

The impact of the decades-long problem of smuggling, hoarding, profiteering, and operation of cartels is already felt at the consumer level with the unwarranted and unreasonable rising prices of commodities despite the absence of food shortage. More than that, our farmers are most affected by the stiff competition in the market with the influx of imported and smuggled goods. During the Senate hearing on the importation of onions, it was revealed that five onion farmers who have suffered huge economic losses due to the manipulation, hoarding, and smuggling of onions, committed suicide. The overimportation and smuggling of onions during harvest season ultimately led to this tragedy. This would not have occurred if only adequate support is given to our local agriculture

Hence, it is necessary that we implement stricter measures against agricultural smuggling. This bill is filed to strengthen the government's anti-agricultural smuggling measures through an expansion of the prohibited acts in Republic Act No. 10845, creation of a National Anti-Smuggling Council and Task Force with the involvement of the private sector, and the extension of period of detention for arrested suspected smugglers in order to effectively curb smuggling and fully prosecute those behind this economic sabotage.

It is undeniable that smuggling and the continued hoarding, profiteering, and operation of cartels kill our agriculture industry. It is high time that we put our local agriculture into the spotlight and provide them utmost support in order to secure

sufficient food supply and an accelerated economic development.

With the foregoing premises considered, I seek your support in the approval of this bill.



NICENOR M. BRIONES
Representative
AGAP Partylist

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AN ACT
STRENGTHENING ANTI-AGRICULTURAL SMUGGLING MEASURES, AMENDING
FOR THE PURPOSE REPUBLIC ACT NO. 10845, OTHERWISE KNOWN AS THE
ANTI-AGRICULTURAL SMUGGLING ACT OF 2016, AND FOR OTHER
PURPOSES

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

SECTION 1. Republic Act No. 10845 (RA 10845) is hereby amended to read as follows:

AN ACT DECLARING LARGE-SCALE AGRICULTURAL SMUGGLING, **HOARDING, PROFITEERING, AND CARTEL** AS ECONOMIC SABOTAGE, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

SEC. 2. Section 1 of RA 10845 is hereby amended to read as follows:

Sec. 1. This Act shall be known as the “Anti-Agricultural [Smuggling] **ECONOMIC SABOTAGE** Act of 2016”

SEC. 3. Section 2 of RA 10845 is hereby amended to read as follows:

Sec. 2. Declaration of Policy. – It is the policy of the State to promote the productivity of the agriculture sector and to protect farmers from unscrupulous traders and importers, hoarders, profiteers, and cartels, who by their illegal importation, **HOARDING, PROFITEERING, AND CARTELIZING** of agricultural products, especially rice, significantly affect the production, availability of supply and stability of prices, and the food security of the State.

THE STATE SHALL LIKEWISE PROMOTE THE AFFORDABILITY OF FOOD AND OTHER AGRICULTURAL COMMODITIES FOR FILIPINO CONSUMERS BY PREVENTING LARGE-SCALE SMUGGLING, HOARDING, PROFITEERING, AND CARTELIZING TO MANIPULATE PRICES AND UNDULY RESTRAIN SUPPLY.

The State shall impose higher sanctions for large-scale smuggling, **HOARDING, PROFITEERING, AND CARTELIZING** of agricultural products, as a self-preservation measure to shield itself from the manipulative scheme of economic saboteurs, and to protect the livelihood of our farmers and to ensure their economic well-being and that of the consumers.

TOWARDS THIS END, THE STATE SHALL ESTABLISH AN INDEPENDENT PUBLIC-PRIVATE ANTI-AGRICULTURAL SMUGGLING COUNCIL MANDATED AND EMPOWERED TO INVESTIGATE AND PROSECUTE SMUGGLING, HOARDING, PROFITEERING, AND CARTELIZING TO EFFECTIVELY ELIMINATE THESE FORMS OF ILLEGAL ACTIVITIES WHICH ARE INIMICAL TO THE WELFARE OF THE FARMERS AND CONSUMERS, AND TO THE COUNTRY'S FOOD SECURITY.

SEC. 4. A new Section 3A shall be inserted after Section 3 of RA 10845 to read as follows:

Sec. 3A. Large-scale Agricultural Smuggling, Hoarding, Profiteering, and Cartel as Economic Sabotage. – Hoarding, profiteering, or cartel, as defined in Section 5 of Republic Act No. 7581, insofar as they involve sugar, corn, pork, poultry, garlic, onion, carrots, fish, and cruciferous vegetables, in its raw state, or which have undergone the simple processes of preparation or preservation for the market, with a minimum amount of one million pesos (P 1,000,000.00), or rice, with a minimum amount of ten million pesos (P 10,000,000.00), as valued by the Bureau of Customs (BOC) for imports or by the Department of Agriculture for domestically produced commodities, shall constitute economic sabotage.

SEC. 5. Section 4 of RA 10845 is amended to read as follows:

Sec. 4. Penalties. –

(a) The penalty of life imprisonment and a fine of twice the fair value of the smuggled agricultural product **OR THE PRODUCT SUBJECT TO HOARDING, PROFITEERING, OR CARTEL** and the aggregate amount of the taxes, duties and other charges avoided **PLUS INTEREST AT THE PREVAILING LEGAL RATE** shall be imposed on any person who commits any of the acts enumerated under **Sections 3 AND 3A** of this Act.

(b) The penalty of imprisonment of not less than seventeen (17) years but not more than twenty (20) years, and a fine of twice the fair value of the smuggled, **HOARDED, PROFITEERED, OR CARTELIZED** agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the officers of dummy corporations, nongovernment organizations, associations, cooperatives, or single proprietorships who knowingly sell, lend, lease, assign, consent or allow the unauthorized use of their import permits for purposes of smuggling, **HOARDING, PROFITEERING, OR CARTELIZING.**

(c) The penalty of imprisonment of not less than fourteen (14) years but not more than seventeen (17) years and a fine equal to the fair value of the smuggled, **HOARDED, PROFITEERED, OR CARTELIZED** agricultural

product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:

- (1) The registered owner and its lessee or charterer, in case of lease, of a chartered boat, motorized commercial vessel of more than three (3) gross tonnage, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;
- (2) The registered owner and its lessee, in case of lease of six (6) or more wheeler trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;
- (3) The registered owner and lessee of a warehouse, or any property, who knowingly stores the smuggled, **HOARDED, PROFITEERED, OR CARTELIZED** agricultural product subject to economic sabotage; or
- (4) The registered owner, lessee, president or chief executive officer of the private port, fish port, fish landing sites, resorts, and airports who knowingly allows the agricultural product to be smuggled into the country, **OR TO BE HOARDED WITHIN THEIR FACILITIES.**

(d) The penalty of imprisonment of not less than twelve (12) years but not more than fourteen (14) years and a fine equal to the fair value of the smuggled agricultural product subject to economic sabotage and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:

- (1) The registered owner and its lessee or charterer, in case of lease.; of a chartered boat, motorized commercial vessel of three (3) gross tonnage or less, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity; or
- (2) The registered owner and its lessee, in case of lease, of less than six (6) wheeler trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity.

In all cases, the smuggled agricultural products shall be confiscated **AND DESTROYED WITHIN SEVEN (7) DAYS** and the property used in agricultural smuggling, consistent with **SECTIONS 1113 AND 1114 OF THE CUSTOMS MODERNIZATION AND TARIFF ACT** and without prejudice to **SECTION 1115** of the same **ACT**, shall be forfeited in favor of the government.

When the offender is a juridical person, criminal liability shall attach to its president, chief operating officer or manager who consents to or knowingly tolerates the commission of the prohibited crime.

Any person, natural or juridical, found guilty under this Act shall also suffer the penalty of perpetual absolute disqualification to engage in any business involving importation.

In applying the abovementioned penalties, if the offender is an alien and the prescribed penalty is not life imprisonment, he/she shall be deported after serving the sentence without further proceedings for deportation.

If the offender is a government official or employee, the penalty shall be the maximum as hereinabove prescribed and the offender shall suffer an additional penalty of perpetual disqualification from public office, to vote and to participate in any public election.

SEC. 6. *Creation of National Anti-Agricultural Smuggling Council.* – There is hereby created a National Anti-Agricultural Smuggling Council, hereinafter referred to as the “Council”, which shall be headed by the Office of the President, principally to combat large-scale agricultural smuggling, hoarding, profiteering, and cartels provided under this law.

SEC. 7. *Composition.* – The Council shall be composed of the following members:

- a. Presidential Security Group, or whoever may be appointed by the President
- b. Representative from the Bureau of Customs
- c. Department of Agriculture, Assistant Secretary for DA Inspectorate and Enforcement
- d. Representative from the rice farmers sector - Federation of Free Farmers
- e. Representative from the pork producers sector – Pork Producers Federation of the Philippines
- f. Representative from the poultry producers sector – United Broilers Raisers Association
- g. Representative from the egg producers sector - Egg Council of the Philippines
- h. Representative from the egg producers sector - Philippine Egg Board
- i. Representative from the corn farmers sector - Philippine Maize Federation
- j. Representative from the vegetable farmers sector – League of Association of La Trinidad Vegetable Trading Post
- k. Representative from the fisherfolk sector
- l. Representative from the sugar planters sector - National Federation of Sugarcane Planters
- m. Representative from the tobacco farmers sector
- n. Samahang Industriya ng Agrikultura
- o. Agricultural Sector Alliance of the Philippines

SEC. 8. *Powers and Functions of the Council.* - The Council shall have the following powers and functions:

- a. To prepare and implement appropriate and effective measures to prevent and suppress large-scale agricultural smuggling, hoarding, profiteering, and cartels;
- b. To direct and oversee the conduct of anti-agricultural economic sabotage intelligence operations and the operations of the Task Force, including the monitoring of situations, circumstances, activities of individuals, groups, and entities who are involved or who are reasonably believed to be involved in smuggling and other market abuses of agricultural products provided for in RA 10845;
- c. To establish a mechanism for an interactive and coordinative mode of operations to ensure operational effectiveness with utmost economy and

- efficiency;
- d. To recommend the issuance of alert orders, search warrant, warrant of seizure and detention in appropriate cases;
 - e. To deputize the Anti-Agricultural Smuggling Task Force and other law enforcement agencies for the investigation, prosecution, search and seizure, and arrest of suspected smugglers;
 - f. To cause or direct the immediate investigation and initiate cases before the prosecutor *motu proprio* involving smuggling, hoarding, profiteering, and cartels of agricultural products, and monitor the progress of such cases;
 - g. To grant monetary rewards and incentives to informants who are willing to give vital and material information for the building up of cases for the arrest and prosecution of agricultural smuggling suspects; and
 - h. To perform such functions and carry out such activities as may be directed by the President.

SEC. 9. Anti-Agricultural Smuggling Task Force. - There shall be an Anti-Agricultural Smuggling Task Force, hereinafter referred to as the "Task Force", to be headed by the Presidential Security Group, with an assistant team leader from the Armed Forces of the Philippines, and shall be composed of the following:

- a. Philippine National Police;
- b. National Bureau of Investigation;
- c. Armed Forces of the Philippines;
- d. Philippine Coast Guard; and
- e. Representatives of the agricultural sectors who are members of the Council.

SEC. 10. Powers and functions of the Task Force. - The Task Force shall be under the control and supervision of the Council and shall have the following powers and functions:

- a. To effect searches, seizures, and arrests, and to file administrative and criminal cases before the prosecutor as may be directed by the Council;
- b. To inspect warehouses where seized commodities are stored to ensure that such commodities are not being ferreted out or removed without proper documentation; and
- c. To secure copies of documents pertaining to the nature and particulars of the commodity or goods subject of importation, i.e., quantity or volume, technical or qualitative specifications, port of destination/estimated date of arrival in the Philippines, cargo manifest, reference values from the Bureau of Customs, transaction values of importers, among others, from government agencies concerned, including but not limited to the Bureau of Customs, Department of Agriculture, and also from non-government sources like pre-shipment companies at the port of origin, and commercial banks in accordance with existing laws, rules, and regulations.

SEC. 11. Extension of period of detention without judicial warrant of arrest. - Any member of the Task Force who, having been duly authorized by the Council in writing, has taken custody of a person suspected of committing any of the following acts defined and penalized under Sections 3 and 4 of this Act, and Section 3 of RA 10845, shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said suspected person to the proper judicial authority within a period of fourteen (14) calendar days counted from the moment the suspected person has been apprehended or arrested, detained, and taken into custody by the members of the Task Force and law enforcement

agencies.

Articles, effects, and other properties used in the commission of the crimes enumerated in this Act shall be immediately seized in accordance with the provisions of this Act, the Customs Modernization and Tariff Act, Rules on Criminal Procedure, and existing laws, rules, and regulations.

SEC. 12. *Special Team of Prosecutors.* – To assist the Council and the Task Force in the expeditious prosecution of criminal and other cases covered under this law, a Special Team of Prosecutors from the Department of Justice shall be assigned to and be under the supervision of the Council. The Team shall have the following powers and duties:

- a. To evaluate evidence gathered by the Council and to determine whether or not violation of RA 10845, as amended, other related laws and regulations, and/or pertinent provisions of the Revised Penal Code, as amended, among others, has been committed;
- b. To apply for the issuance of warrant of seizure and detention in appropriate cases;
- c. To initiate and conduct preliminary investigations and timely file and prosecute the appropriate administrative and criminal charges against the person, group, or entity responsible for smuggling, hoarding, profiteering, and cartel; and
- d. To apply for the issuance of search warrant or warrant of arrest before the courts in appropriate administrative or criminal cases.

SEC. 13. *Funding.* – Five percent (5%) of the total tariff collections from livestock, poultry, and dairy; five percent (5%) of the excess tariff collections from rice; and five percent (5%) of the total tariffs collected from other agricultural products enumerated in Section 3 of this Act, shall be set aside to finance the operations of the Council and the Task Force and the implementation of this Act.

SEC. 14. *Reporting Requirements.* – The Council shall submit an annual report to Congress on the progress and accomplishments made in the implementation of this Act, including policy recommendations to improve anti-smuggling operations.

SEC. 15. *Implementing Rules and Regulations.* – Within thirty (30) days from effectivity of this Act, the Council shall, in coordination with other government agencies concerned, promulgate the rules and regulations to expeditiously implement the provisions of this Act.

SEC. 16. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, and other issuances, or parts thereof, contrary to or inconsistent with this Act are hereby modified, amended or repealed accordingly.

SEC. 17. *Separability Clause.* – If any provision of this Act shall be held unconstitutional or invalid, the remaining provisions which are not affected thereby shall continue to be in full force and effect.

SEC. 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,