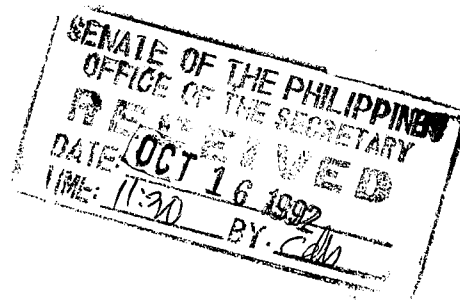


Congress of the Philippines }
First Regular Session }

S E N A T E
Manila



Senate Bill No. 849

Introduced by : Senator Gloria Macapagal-Arroyo

EXPLANATORY NOTE

The trend that is gaining momentum and acceptance all over the world is "privatization." Governments of different countries through the range of the socio-economic and political spectrum have come to realize that too much government intervention in maintaining economic stability of a country is, by its very nature, distortionary so that perceived developments may be illusory.

In the Philippines, a meaningful economic and social development will only be truly realized if the grassroots is allowed to participate in the process. This includes increasing their purchasing power and access to vital institutions. The key to its realization, is to involve and make the private sector relevant in the process.

The export sector definitely plays a pivotal role in the process. By developing the export sector, the country will be assured of external account stability and of the growth of the domestic market, thereby easing the obstacles to people empowerment.

The thrust of this proposed legislation is to involve as much private sector participation in the promotion and development of the export sector by recognizing a single cohesive and well-organized exporters confederation and giving it responsibilities, incentives or support. Commitment and direction from the government is vital, thus the proposal to make the President of the Philippines the head of the Export and Investment Council. Equally important is for government to stimulate the export sector to be competitive in the international market.

There are indications that we will be overtaken by other less underdeveloped countries if we do not realize the urgency of adopting measures such as those proposed in this bill to propel and accelerate our export promotion program.

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In view of the foregoing, approval of this bill is strongly recommended.

Macapagal Arroyo
GLORIA MACAPAGAL-ARROYO
Senator



Senate Archives (LRAS)

Congress of the Philippines }
First Regular Session }

SENATE

Senate Bill No. 840

Introduced by : Senator Gloria Macapagal-Arroyo

AN ACT
TO ACCELERATE THE GROWTH AND DEVELOPMENT OF PHILIPPINE
EXPORTS BY RATIONALIZING THE GOVERNMENT'S EXPORT
PROMOTION AND DEVELOPMENT FUNCTIONS, ENCOURAGING UNITY
AMONG PHILIPPINE EXPORTERS, GRANTING INCENTIVES TO
EXPORTERS AND FOR OTHER PURPOSES.

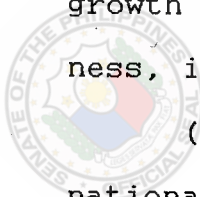
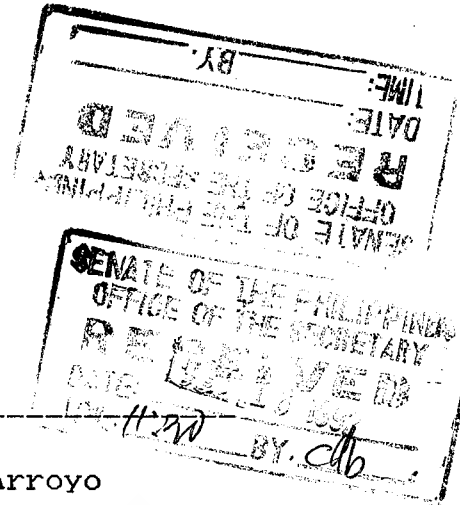
Be it enacted by the Senate and House of Representatives
of the Philippines in Congress Assembled:

SECTION 1. Short Title. - This Act shall be known as the "Philippine Export Development Act of 1992."

SECTION 2. Declaration of Policy. - To accelerate the growth of the Philippine economy, recognizing that sustained export growth is the key to national survival, productivity and employment, economic growth and development and international competitiveness, it is hereby declared that:

(1) The State shall formulate and adopt a national program for the development of the country's export industry and ensure the adoption of policies, strategies, and programs that will support and pursue the thrusts of Philippine exports;

(2) Recognizing that the export potential of the economy and the efficiency of export promotion and development programs could be best realized through



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private enterprises, priority shall be given by the State to developing efforts of exporters by maintaining adequate financial support structures and a capable and flexible government structure;

(3) The State shall recognize and give incentives to the Philippine Exporters Confederation, Inc. (PHILEX-PORT) or its successor-in-interest as the single exporter organization which shall "present a unified front and speak a single voice" for all exporters in the Philippines;

(4) The State, recognizing that the development of the export industry is a solution to the balance of payments and employment difficulties besetting the country, shall grant incentives to exporters; and

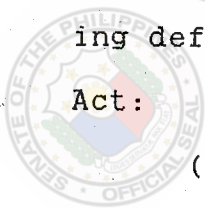
(5) The State shall express to the international trade community its commitment to abide by accepted free trade practices and shall present the Philippines as a hospitable venue for the entry and operation of legitimate foreign capital investments and institutions.

SECTION 3. Definition of Terms. - The following definitions shall apply to these terms used in this Act:

(1) "Council" refers to the Export and Investment Development Council.

(2) "Program" refers to the National Export Development Program.

(3) "PHILEXPORT" refers to the Philippine Exporters Confederation, Inc. which is the existing single organization of exporters as a result of the merger of



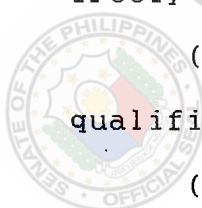
the Confederation of Philippine Exporters (COPE) and the Philippine Exporters Foundation (PHILEXPORT) on 25 October 1991.

(4) "Exporter" means any person, natural or juridical, (a) engaged in the production, manufacture or trade of products and/or services which earns part or all of its normal operating revenues from the sale of its products abroad for foreign currency; or, (b) in the case of "indirect exporters", those engaged in the production or manufacture of products which earns part or all of its normal operating revenues from the sale of its products to an exporter or exporters, as hereinabove defined as raw material for, or component to, a product which is finally exported.

(5) "Tax credit" means any of the credits against taxes and/or duties equal to those paid or would have been paid to the government which tax credit shall be issued by the Secretary of Finance or his representative. The tax credit certificates shall be freely transferable.

(6) "Registered exporter" means any exporter who qualifies for registration under this Act.

(7) "ITG" means the International Trade Group of the Department of Trade and Industry which is composed of the Bureau of Export Trade Promotion (BETP), Bureau of International Trade Relations (BITR), Center for International Trade Expositions and Missions (CITEM), Foreign Trade Service Corps (FTSC), Garments and Textile Export Board (GTEB), International Coffee Organization Certifying Agency (ICOCA), Philippine Trade



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and Training Center (PTCC), Philippine Shipper's Council (SHIPPERCON), Philippine International Trading Corporation (PITC) and Product Development and Design Center of the Philippines (PDCCP) and the Bureau of Patents, Trademarks and Technology Transfer (BPTTT).

(8) "Direct export sales" means the Philippine port F.O.B. value of export products directly sold abroad by an export member whose value is determined from the invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents.

(9) "Incremental direct export sales" means the direct export sales for the current year less the direct export sales for the preceding year.

(10) "Percentage incremental direct export sales" means the percentage increase in direct export sales of an exporter-member.

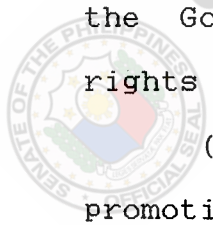
SECTION 4. The Program. - There shall be an approved National Export Development Program which will serve as the aggregate of coordinated economic policies, programs and activities aimed at achieving a sustained acceleration in the growth of Philippine exports, including promotional programs which the government may, by itself or in cooperation with the private sector, undertake for the same purpose. The Program shall be the basis for developing and implementing specific export-related programs and activities of agencies and instrumentalities of the government.



SECTION 5. The Objective of the Program. - The objective of the Program shall be to mobilize the resources of the Government and the private sector in a coordinated drive to accelerate the national export performance.

SECTION 6. The Export and Investment Development Council (EIDC). - The Council shall have the following duties and functions:

- (1) Review and approve the National Export Development Program;
- (2) Provide leadership and direction to the development and promotion of exports;
- (3) Provide a clear expression of national commitment to exports as the key to national survival, growth and development;
- (4) Recommend to Congress any proposed legislation that would contribute to the development of exports;
- (5) Requisition any information it may legally require from any department, agency or corporation of the Government, subject only to the confidentiality rights of individuals and juridical persons;
- (6) Formulate policies to rationalize the export promotion and development functions of the ITG for the transfer of government export promotion and development activities to the private sector;
- (7) To override departmental and bureau level policies, decisions, rules or regulations which are inconsistent with or contrary to the attainment of the Council's objectives;
- (8) To monitor and assess the implementation of the National Export Development Program and whenever



necessary, to make or recommend appropriate adjustments thereon in the light of changing conditions, in both the domestic and international environment; and

(9) Adopt such policies, rules, procedures and administrative systems which are, in its judgment, necessary for the efficient and effective exercise of its powers and functions.

SECTION 7. Meetings of the Council. - The Council shall meet at least once a month and when the President deems it necessary, the Council may be convened at any time.

SECTION 8. Composition of the Council. - The Council shall be composed of nineteen (19) members, comprising of eleven (11) representatives from the Government sector and ten (10) representatives from the private sector.

(2) The representatives of the Government sector in the Council shall be:

(a) The President of the Philippines, as ex-officio Chairman;

(b) The Secretary of Trade and Industry, as Vice-Chairman;

(c) The Governor of the Central Bank of the Philippines or his Deputy;

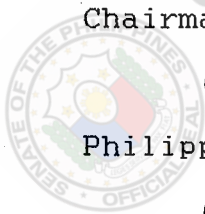
(d) The Director-General of the National Economic and Development Authority or his Deputy;

(e) The Secretary of Agriculture or his Deputy;

(f) The Secretary of Finance or his Deputy;

(g) The Secretary of Science and Technology or his Deputy;

(h) The Secretary of Labor and Employment or his Deputy;



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(i) The Secretary of Transportation and Communication or his Deputy;

(j) The Secretary of Foreign Affairs or his Deputy; and

(k) The Secretary of Environment and Natural Resources or his Deputy.

The President can call any department head to sit in the Council, on an ad-hoc basis, to assist the Council on issues and problems that concern his respective Department.

(3) The private sector representatives shall be composed of the following:

(a) The President of the Philippine Chamber of Commerce and Industry as an ex-officio member;

(b) The Chairman of PHILEXPORT or its successor-in-interest, as an ex-officio member;

(c) The President of PHILEXPORT, as an ex-officio member;

(d) The President of the Confederation of Small and Medium Exporters as an ex-officio member;

(e) A Representative from PHILEXPORT Visayas;

(f) A Representative from PHILEXPORT Mindanao;

(g) Four (4) other Private Sector Representatives.

The four (4) private sector representatives shall be appointed by the President from a list of twelve (12) nominees submitted by PHILEXPORT.

The private representatives shall be exempted from divesting their interests in any private company or corporation or such other business they are engaged in as a precondition to their appointment as members of the Council.



SECTION 9. Tenure of Government Representatives and Private Sector Members -

(1) The tenure of the government representatives in the Council shall be co-terminus with their positions in the government.

(2) The private sector members of the Council shall serve for a term of two (2) years. Members shall be eligible for reappointment.

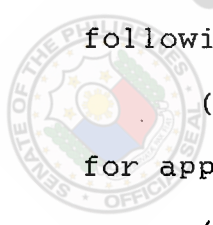
(3) When a vacancy arises in the Council due to the resignation, death, or incapacity of a private sector member, a replacement who shall serve for the unexpired term shall be appointed by the President from a list of nominees submitted by the Council.

SECTION 10. Transfer of Export Promotion and Development Functions of the Government to the Private Sector. -

The Council shall effect the privatization of the export promotion and development functions of the ITG within five (5) years from the approval of this Act.

SECTION 11. The Philippine Exporters Confederation, Inc. (PHILEXPORT) or its successor-in-interest. -

PHILEXPORT or its successor-in-interest shall have the following duties:



(1) Develop a National Export Development Program for approval by the Council;

(2) Maintain its status as the umbrella organization of exporters in the Philippines, to represent the export sector; and

(3) Perform such other functions as may be prescribed by this Act and the Council.

SECTION 12. Representation in Export-Related Government Agencies. - PHILEXPORT or its

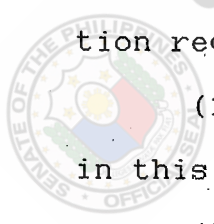
successor-in-interest shall have adequate representation in government agencies, public corporations or such other decision-making government institutions with export related functions or concerns, whenever possible.

SECTION 13. Incentives for PHILEXPORT or its successor-in-interest.

(1) Exemption from Taxes. - PHILEXPORT or its successor-in-interest as the country's unified exporters organization shall be exempt from all taxes, licenses, fees and duties imposed by the National and Local Governments; and

(2) Land Grant and Guaranteed Loan from the Government. - The plans, programs and projects of PHILEXPORT or its successor-in-interest, as approved by the Council shall be entitled to appropriate government guarantees, and such other grants as may be necessary for the implementation thereof.

SECTION 14. Registration of Exporters. - To be entitled to the incentives given to exporters under this Act, an applicant must satisfy the following registration requirements:



(1) The applicant must be an exporter, as defined in this Act:

(2) The applicant must have the endorsement of PHILEXPORT or its successor-in-interest;

(3) The applicant must be capable of operating on a sound and efficient basis, and of contributing to the development of the export industry.

SECTION 15. Application. - Applications shall be filed with the Bureau of Export Trade Promotions (BETP), Department of Trade and Industry, recorded in a registration book and the date appearing therein stamped

on the application shall be considered the date of official acceptance.

SECTION 16. Approval. - The Department of Trade and Industry is authorized to formulate and adopt rules and regulations, in consultations with the Council, to facilitate action on applications filed; prescribe criteria for the evaluation of applications for registration; and devise standard forms for use of applicants.

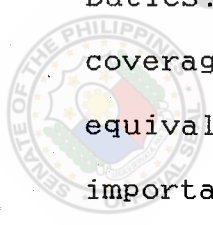
Applicants shall be considered automatically approved if not acted upon by the BETP within twenty (20) working days from the official acceptance thereof.

SECTION 17. Incentive to Registered Exporters. - All registered exporters shall be granted the following incentives:

(1) Exemption from Travel Tax. - The registered exporter, or any of its representatives shall be exempted from the payment of the Travel Tax as certified by the Council.

(2) Exemption from the Advance Deposit of Customs Duties. - A registered exporter shall be exempt from coverage of any law or regulation requiring deposits equivalent to the amount of chargeable customs duties on importation prior to the opening of letters of credit.

(3) Deduction of Export Promotion Expenses. - A registered exporter shall be allowed to deduct from its taxable income one hundred fifty percent (150%) of all expenses incurred for export promotion activities outside the Philippines: Provided, That such expenses shall not be further deducted as part of the normal business expenses under the National Internal Revenue



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Code: Provided, further, That the export promotion activities undertaken are part of the National Export Development Program as certified to by the Council.

(4) Deduction of Research and Development Expenses. - A registered exporter shall be allowed to deduct from taxable income two hundred percent (200%) of all expenses incurred on research and development activities on products for export as certified to by the council: Provided, That such expenses shall not be deducted as part of the normal business expenses under the National Internal Revenue Code.

(5) Deduction of Incremental Direct Export Sales. - A registered exporter shall be allowed to deduct from taxable income five percent (5%) of incremental direct exports sales valued in Philippine Pesos: Provided, That the percentage incremental direct export sales of the registered exporter is not less than five percent (5%): Provided, further, That the registered exporter is engaged in the production, manufacture or processing of products for export, as certified to by the Council.

(6) Foreign Currency Loan. - A registered exporter shall be allowed to avail of foreign currency loans with foreign banks without the need of securing approval from the Central Bank of the Philippines: Provided, That the registered exporter shall register with the Central Bank.

(7) Special Relending Rates. - Government and private financial institutions, in the relending of funds sourced from foreign loans by the government, shall charge registered exporters an interest rate equivalent to the rate at which the foreign loan was secured plus a margin not exceeding three percent (3%).

(8) Comprehensive Financing System. - The government shall establish and provide a comprehensive financing system that shall include pre-shipment and post-shipment financing, credit guarantee and an insurance system for exporters.

SECTION 18. Withdrawal of and Limitation to the Availment of Incentives. - (1) The Council shall withdraw the incentives granted to a registered exporter if:

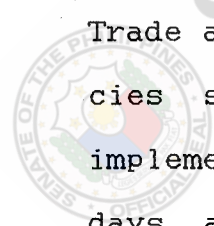
(a) The registered exporter ceases to meet the requirements under Sec. 14 of this Act; or

(b) The registered exporter violates any conditionality of the incentives which it avails of under this Act.

(2) No registered exporter availing of incentives under this Act shall be allowed to avail of similar incentives granted under other incentive laws.

SECTION 19. Implementing Rules and Regulations.

- The Council, in consultation with the Department of Trade and Industry and other concerned government agencies shall promulgate the rules and regulations to implement the provisions of this Act within ninety (90) days after its approval. Such rules and regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation in the Philippines.



SECTION 20. Secretariat. - A Secretariat to the Council shall be composed of such personnel as shall be detailed to the Council by the Department of Trade and Industry and PHILEXPORT or its successor-in-interest.

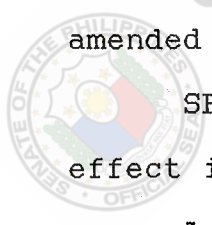
SECTION 21. Funding. - The sum of SIX MILLION (P 6,000,000.00) Pesos is hereby appropriated for the operation of the Export and Investment Development Council, from the budget of the Department of Trade and Industry for the current fiscal year. Thereafter, the annual budget of the Council shall be included in the General Appropriations Act.

SECTION 22. Separability Clause. - The provisions of this Act are hereby declared separable and, in the event any of such provisions is declared unconstitutional, the other provisions which are not affected thereby shall remain in force and effect.

SECTION 23. Repealing Clause. - All laws, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 24. Effectivity. - This Act shall take effect immediately upon approval.

Approved.



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