

'22 JUL 13 P 2 :03

SENATE
S. No. 505

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Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT
INSTITUTIONALIZING A PHILIPPINE SELF-RELIANT DEFENSE POSTURE PROGRAM AND PROMOTING THE DEVELOPMENT OF A NATIONAL DEFENSE INDUSTRY PURSUANT THERETO

EXPLANATORY NOTE

The Philippines, lying at the heart of the volatile Indo-Pacific region and given its involvement in maritime issues against the neighboring countries, needs to strengthen its defense capabilities in order to secure the sovereignty of the State and the integrity of the national territory. Apart from external threats, impervious defense force is also needed to respond to and quell internal attacks, lawless elements and terrorists coming from the domestic front.

This measure seeks to revitalize and institutionalize a Philippine Self-Reliant Defense Posture Program which can be traced back during the 1970s, and was later reinforced by other initiatives, including the Armed Forces of the Philippines (AFP) Modernization Law¹. This bill also proposes the development of a National Defense Industry that will give preference to in-country enterprises, utilize domestic resources in the manufacture of military equipment and armaments, generate local employment, and reduce foreign exchange outflow. Lastly, it will lessen our dependence on foreign governments and limit outside support in realizing our defense requirements.

¹ Opportunities and Challenges facing Philippine Defense Industrial Development.
https://ndcp.edu.ph/opportunities-and-challenges-facing-philippine-defense-industrial-development/#_edn18

This measure is also part of the legislative priorities outlined in the updated Philippine Development Plan (PDP) 2017-2022, which recognizes the need to manage conflict and reduce tensions in the South China Sea, as well the emergence of radicalized movements and violent extremism.

This proposal was already approved on Third and Final Reading by the House of Representatives during the Eighteenth Congress.

In this light, the immediate passage of this bill is highly recommended.



RAMON BONG REVILLA, JR.

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

Office of the Secretary

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INSTITUTIONALIZING A PHILIPPINE SELF-RELIANT DEFENSE POSTURE
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INDUSTRY PURSUANT THERETO

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 Self-Reliant*
2 *Defense Posture Program Act.*"

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 promote and spur the growth of an independent national defense by establishing a
5 self-reliant defense posture program that shall prioritize the development of the
6 country's national defense capabilities, including a competent domestic defense
7 industry.

8 In view thereof, the State shall endeavour to develop a National Defense
9 Industry, hereinafter referred to as Industry, as an indispensable element of national
10 defense. The State recognizes that:

- 11 a) The industry plays a vital role in nation-building in the achievement of the
12 national vision of an independent and self-reliant sovereign state, capable
13 of providing its own resources for defense, security, and national survival,
14 specifically during war and other national emergencies;
- 15 b) The active participation of development of collaborative partnerships with
16 the private sector is an important strategy in the development of a viable,

- 1 world-class defense industry and that the grant of incentives for such
2 participation can help ensure the sector's meaningful contribution thereto;
- 3 c) The continued observance of the "Filipino First" policy in developing the
4 Philippines' defense capability is consistent with the country's national
5 security aspirations;
- 6 d) The Philippines has adequate human and other resources that can help
7 ensure the adequate supply of affordable, globally-competitive, high-quality
8 defense implements, equipment, machinery, systems and solutions,
9 conduct defense technology research, provide and develop defense-related
10 technology, as well as engineering and design education and training
11 services that are necessary to the development of the Industry; and
- 12 e) Science and technology, academic research and development institutions,
13 and technology transfer all play an important role in the development of
14 effective defense capabilities, the undertaking of successful defense
15 missions, and the achievement of peace and meaningful modernization.

16 Therefore, to foster the progressive growth of the industry and hasten defense
17 self-sufficiency, the government shall strengthen and revitalize the Self-Reliance
18 Defense Posture Program (SRDP), incentivize private sector participation in the
19 Industry, rationalize defense acquisition, and create the Office of the Undersecretary
20 for Defense Technology Research and Industry Development.

21 *Sec. 3. Definition of Terms. – As used in this Act:*

- 22 a) *Acquisition* – refers to the management and procurement process of the
23 government that helps ensure the proper and timely investment in
24 technologies, programs and product support necessary for the purposes of
25 the Philippine Armed Forces in promoting national defense and security. It
26 shall include the acquisition of raw material, competent human resources,
27 critical components and materiel;
- 28 b) *Countertrade* – refers to international trade by exchange of goods rather
29 than by currency purchase;
- 30 c) *Critical components* – refer to components, systems, subsystems, and
31 related special tooling and test equipment essential to the production,
32 repair, maintenance or operation of weapon systems or other items of

1 equipment identified as being essential to the execution of any national
2 defense and national security strategy;

3 d) *Highest rated bid* – refers to the offer with the highest calculated rating
4 based on the criteria and parameters not limited to capability, quality,
5 timeliness of delivery, life cycle cost, after-sales support, transfer of
6 technology, warranty, prerequisites and price;

7 e) *In country enterprise* – refers to Filipino-owned enterprises engaged in the
8 manufacturing, servicing and operation of materiel in the Philippine, or to a
9 foreign-owned enterprise engaged in the manufacturing, servicing, and
10 operation of materiel, and which has located a substantial portion of its
11 production activities within the Philippines;

12 f) *Integrated logistics support* – refer to an integrated and iterative process
13 for developing materiel and a support strategy that optimizes functional
14 support, leverages existing resources, and guides the system engineering
15 process to quantify and lower life cycle cost and decrease the logistics
16 footprint, making the system easier to support;

17 g) *Materiel* – refers to military technology, materials and equipment, including
18 arms and ammunition and combat clothing;

19 h) *Minimum local content* – refers to the minimum percentage of intermediate
20 goods used in the manufacturing processes to be sources from in-country
21 enterprises;

22 i) *National defense* – refers to the policies, measures and initiatives intended
23 to provide the necessary protection to the State against external and
24 internal threats;

25 j) *National security* – refers to a state or condition wherein the people's
26 welfare, well-being, way of life; government and its institutions; territorial
27 integrity; sovereignty; and core values are enhanced and protected;

28 k) *Servicing* – refers to the process of maintaining, repairing or overhauling
29 materiel;

30 l) *Strategic Investments Priorities Plan (SIPP)* – refers to the government's list
31 of priority areas and preferred activities that shall be entitled to tax
32 incentives under law.

1 *Sec. 4. Self-Reliant Defense Posture Program.* – The Self-Reliant Defense
2 Posture Program is hereby established and instituted as the tool of the State to
3 undertake the development of a national defense industry. The underlying concept of
4 self-reliance shall be manifested in the continued preference on local production when
5 feasible, of materiel for the country’s defense forces through the partnership between
6 the military and civilian establishments, and taking the recourse to importation only
7 for those requirements that cannot be locally produced with the ultimate objective of
8 acquiring the technology for the production of these materiel. Paramount to the
9 attainment of this objective is the responsibility of the military and other government
10 agencies to provide technical and financial assistance to civilian defense
11 manufacturers.

12 *Sec. 5. National Defense Industry.* – The National Defense Industry shall be
13 developed in accordance with the following principles:

- 14 a) The foreign support for defense requirements shall be subject to this Act
15 and the policies approved by the President;
- 16 b) To develop the defense capability of the country, the State shall:
- 17 1) Rely primarily on and give preference to in-country enterprises, allocate
18 substantial resources and manpower to defense research, and provide
19 relevant technical and financial assistance to the private sector;
- 20 2) Utilize to the fullest the country’s natural resources as the source of the
21 country’s defense needs, and rely on material readily available,
22 produced, manufactured or otherwise created locally; and
- 23 3) Use material from foreign sources only when such material cannot be
24 locally produced, manufactured or otherwise created: Provided, That
25 importation from such foreign sources shall be the ultimate objective of
26 acquiring technology for the production of such unavailable materiel;
- 27 c) In order to reduce foreign exchange outflow, generate local employment
28 opportunities, and enhance technology transfer to the Philippines, the
29 Secretary of National Defense, hereinafter referred to as Secretary, shall, as
30 far as practicable, incorporate in each agreement involving the government
31 the manufacturing, servicing or operation of materiel special foreign

1 exchange reduction schemes and countertrade, in-country manufacture co-
2 production, or other innovative arrangements or combination thereof.

3 *Sec. 6. Incentives. –*

4 a) Any provision of law to the contrary notwithstanding, foreign and local
5 enterprises engaged or proposing to engage in the manufacture, servicing
6 and operation of materiel for the government may be registered and may
7 avail of the incentives under and subject to the conditions in the National
8 Internal Revenue Code of 1997, as amended: Provided, That the
9 manufacture, servicing, and operation of materiel for the government as an
10 industry sector, or its subsectors shall undergo the standard processes
11 involved in the identification of preferred activities under the Strategic
12 Investments Priorities Plan (SIPP) and shall be accompanied by a cost-
13 benefit analysis showing the need for incentives.

14 In the interest of national security, the Board of Investments (BOI) shall
15 adopt a special procedure in the processing of applications for registration
16 of enterprises that desire to participate in the Industry and offer goods or
17 services to the government under SRDP.

18 b) Government financial institutions shall support the industry by formulating
19 and extending financial products that would hasten its development.

20 *Sec. 7. Rationalization of Defense Acquisition. –*

21 a) Any provision of law to the contrary notwithstanding, the Secretary, in
22 behalf of the government, is hereby authorized to enter into contracts,
23 under such terms and conditions as may be agreed upon, with any natural
24 or juridical person, with or without public bidding, for the manufacture,
25 servicing or operation of materiel or components thereof, facilities, utilizes
26 and appurtenances thereto necessary for national defense: Provided, That,
27 in the exercise of such authority, the Secretary shall comply with the
28 reportorial requirements under Section 13 of this Act.

29 b) Any provision of law to contrary notwithstanding, contracts for the
30 manufacture, procurement of services of local providers, servicing or
31 operation of materiel or components thereof, facilities, utilities and
32 appurtenances thereto which are necessary for national defense and which

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

5 c) In the event that a public bidding is required by the Secretary, and the
6 manufacturing, servicing, or operation of materiel or components thereof,
7 facilities, utilities, and appurtenances thereto which are necessary for
8 national defense cannot be locally produced, manufactured, or otherwise
9 created, and whenever several bidders shall participate in the bidding, the
10 following principles shall be observed in the evaluation of the criteria on
11 price, when comparing foreign enterprises with in-country enterprises;

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

17 2) In the event a public bidding utilizes the standard highest rated bid, the
18 bids of in-country enterprises shall be considered as having won the
19 criteria of price as long as such bids shall not be more than fifteen
20 percent (15%) in excess of the bid of such foreign enterprise.

21 d) In the event that public bidding is required by the Secretary, and the
22 manufacture, servicing or operation of materiel or components thereof,
23 facilities, utilities and appurtenances thereto which are necessary for
24 national defense cannot be locally produced, manufactured or otherwise
25 created, and only foreign enterprises participate, the Department shall have
26 the ultimate objectives of acquiring and transferring technology and
27 knowledge, and generating local expertise towards the eventual local
28 production of such materiel or components thereof.

29 e) Nothing in this Act shall prohibit or restrict lawful government-to-
30 government transactions for the manufacture, servicing or operation of
31 materiel or components thereof, facilities, utilities and appurtenances
32 thereto, which are necessary for national defense.

1 f) The Department, in consultation with representatives of in-country
2 enterprises, shall issue reasonable regulations on the minimum local content
3 for all defense-related acquisitions. The Department may consult with other
4 government agencies to determine such minimum local content.

5 To support the economic and employment generation thrusts of the
6 country, all manpower needs of the industry requiring the engagement or
7 hiring of civilian labor shall be sourced locally and, and as far as practicable,
8 be Filipino.

9 g) Logistics support must be incorporated in all contracts on defense-related
10 acquisitions.

11 *Sec. 8. Multi-Year Contracts and Other Contractual Arrangements.* – For the
12 purpose of materiel acquisition, notwithstanding existing laws to the contrary, and
13 subject to Section 13 of this Act, the Department and its bureaus shall be authorized
14 to enter into multi-year contracts and other multi-year contractual arrangements;
15 Provided, That Congress shall, upon issuance of a multi-year obligation authority by
16 the Department of Budget and Management (DBM), make the corresponding
17 appropriation for the ensuing fiscal years: Provided further, That the Department shall,
18 in consultation with the DBM, issue implementing guidelines to ensure consistency
19 with the Revised AFP Modernization Program and this Act: Provided furthermore, That
20 the Department and its bureaus shall coordinate and conduct acquisition planning for
21 the purpose of implementing multi-year contractual arrangements and other multi-
22 year obligations: Provided finally, That the DBM shall expedite the issuance of multi-
23 year obligation authorities as necessary.

24 *Sec. 9. Performance Undertakings.* – The Department of Finance (DOF) is
25 authorized to recognize the obligations of the Department and its bureaus with respect
26 to acquired materiel as obligations of the Republic of the Philippines and to undertake
27 to pay the same in the event of non-payment by the Department and its bureaus.

28 *Sec. 10. Countertrade.* – Countertrade for defense-related acquisition shall be
29 significant, meaningful and must be of benefit to the Industry.

30 *Sec. 11. Exemption from the SLCC requirement.* – In country enterprises
31 participating in the acquisition of material by the Department and its bureau shall upon
32 the effectivity of this Act, be exempt from the Single Largest Completed Contract

1 (SLCC) requirement as provided for under Sec. 23.5.1.3 of the revised rules and
2 regulations issued to implement Republic Act No. 9184, otherwise known as the
3 Government Procurement Reform Act.

4 *Sec. 12. Creation of the Office of the Undersecretary for Defense Technology*
5 *Research and Industry Development.* – There is hereby created in the Department an
6 Office of the Undersecretary for Defense Technology Research and Industry
7 Development. The Office shall be headed by an officer with the rank of
8 Undersecretary, assisted by an Assistant Secretary, and supported by at least three
9 (3) directors with the equivalent rank of Director IV. The Office will be charged with
10 the responsibility of managing and administering a databank for analysis, conducting
11 research and development and technology transfer, facilitating defense industry
12 promotion, establishing public-private partnerships, and setting up domestic and
13 foreign collaborations, and advising, recommending policies, rules and regulations to
14 the Secretary on all matters pertaining to the development of the Industry and the
15 implementation of this Act. Such Undersecretary, Assistant Secretary and Directors
16 shall be appointed by the President of the Philippines.

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

- 19 a) An Annual Report on the acquisitions made under this Act; and
- 20 b) Copies of the multi-year contracts and other agreements entered into by
21 the Department and its bureaus.

22 Pursuant to its constitutional duties, the Executive Department, particularly the
23 National Economic and Development Authority (NEDA), the Commission on Audit, and
24 the Congress shall discharge oversight functions over the implementation of the
25 program in the following manner:

- 26 1) The NEDA shall conduct an annual review of the status of all defense-related
27 acquisitions exercised by the Secretary in Section 7 of this Act, identify
28 causes of delays, the reasons for bottlenecks, actual and prospective cost
29 overruns, determine the continued viability of the SRDP and the industry,
30 and submit its findings and recommendations to the Congress not later than
31 June 30 of each year;

- 1 2) The Commission on Audit shall conduct an audit on each ongoing and
2 completed acquisition and render a report to the Congress thereon not later
3 than June 30 each year; and
- 4 3) There shall be a Congressional Oversight Committee composed of the
5 Chairpersons of the Committee on National Defense and Security of both
6 Senate and House of Representatives who shall serve as Co-Chairpersons
7 of the Oversight Committee, the Chairpersons of the Committee on Ways
8 and Means of both Senate and House of Representatives who shall serve as
9 Co-Vice-Chairpersons, four (4) members each from the Senate and the
10 House representing the majority and two (2) members each from the
11 Senate and the House representing the minority to be designated by the
12 leaders of the majority and minority in their respective chambers.

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

16 Sec. 15. *Cooperation of Government Agencies.* – The DBM, DOF, BOI,
17 Government Procurement Policy Board (GPPB) and other government agencies are
18 enjoined to support the provisions of this Act. The Department and its bureaus, in
19 consultation with the DBM, and the GPPB, shall strengthen their systems and
20 procedures to support the objectives of the SDRP and the acquisition of materiel under
21 this Act.

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

27 Sec. 17. *Role of the GPPB.* – The GPPB shall continue to fulfil its functions as
28 provided in Republic Act No. 9184, subject however to the provisions of this Act:
29 Provided, That in no case shall the GPPB interpret Republic Act No. 9184 or any
30 subsequent general law on procurement as overriding any of the provisions of this
31 specific law. The Secretary shall continue to serve as a member of the GPPB.

1 Sec. 18. *Rule of Interpretation.* – Rights and obligations existing on the date of
2 effectivity of this Act and arising out of contracts shall be governed by the original
3 terms and conditions of said contracts or the law in force at the time such rights were
4 vested.

5 Sec 19. *Implementing Rules and Regulations.* – The Secretary shall issue the
6 necessary rules and regulations and standard forms for the effective implementation
7 of this Act.

8 Sec. 20. *Separability Clause.* – If any provision or part hereof is held invalid or
9 unconstitutional, the remainder of the law or the provision or part not otherwise
10 affected shall remain valid and subsisting.

11 Sec. 21. *Repealing Clause.* – Sections 1 and 2 of Presidential Decree No. 415,
12 Authorizing the Secretary of National Defense to Enter Into Defense Contracts to
13 Implement Projects Under the Self-Reliant Defense Programs and For Other Purposes,
14 as amended by Presidential Decree No. 1081 are hereby repealed. The following laws,
15 orders and regulations are hereby modified or supplemented, as the case may be, in
16 accordance with this Act:

- 17 a) An exception to Government Procurement Policy Board Resolution No. 06-
18 2003 in relation to its amendment to Section 1 of Presidential Decree 415
19 shall be observed with respect to provisions of this specific law;
- 20 b) An exception to Republic Act No. 10667, otherwise known as the Philippine
21 Competition Law, in relation to its repeal of Section 4 of Commonwealth Act
22 No. 138, entitled "An Act To Give Native Products And Domestic Entities The
23 Preference In The Purchase Of Articles For The Government" shall be
24 observed with respect to provisions of this specific law;
- 25 c) An exception to Republic Act No. 9184 insofar as it covers procurement of
26 material shall be observed;
- 27 d) An exception to Republic Act No. 1884 entitled, "An Act To Establish A
28 Government Arsenal, Provide For Its Operation And For Its Other Purposes,"
29 insofar as the exercise of the responsibility of the Office of the
30 Undersecretary of Defense for Munitions in research and development; and
- 31 e) Section 9 of Republic Act No. 7898 entitled "An Act Providing For the
32 Modernization of the Armed Forces of the Philippines And For Other

1 Purposes," as amended by Section 5 of Republic Act No. 10349 entitled, "An
2 Act Amending Republic Act No. 7898, Establishing The Revised AFP
3 Modernization Program And For Other Purposes" is hereby modified.

4 All other provisions of existing laws, order and regulations contrary to or
5 inconsistent with this Act are hereby repealed or modified accordingly.

6 Sec. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its
7 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,