

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6591



Introduced by **HON. TSUYOSHI ANTHONY G. HORIBATA**

EXPLANATORY NOTE

The Cacao Industry in the Philippines desperately needs national government intervention to assure its stability and development. Despite being ideal for cacao plantation and production, the country has not been on par with other leading ASEAN countries like Indonesia and Malaysia who are continually on the top of cocoa bean production¹.

The country is a net importer of cacao that averages around USD 168.3 million worth of imports but only has around USD 22.1 million in export value. Major chocolate producers in the country, who seldom purchase domestic cocoa beans, are credited with the substantial import of cocoa powder and the high export value of chocolate. They also make their products with imported cocoa butter and powder².

According to a Department of Agriculture report, the Philippines has an estimated global demand of 4.7 million to 5 million metric tons by 2020³. Nonetheless, a cocoa shortage of 1 million metric tons is predicted. Annual domestic consumption is 50,000 metric tons, while national domestic supply is only around 10,000 metric tons⁴.

Despite the data in the country, it is noted in the "Cocoa Powder Market – Forecasts from 2020 to 2025" that the worldwide cocoa industry, most especially the Asia Pacific region, is predicted to grow at a significant pace during the forecast period owing to the wide popularity of cocoa powder among the end-user industries. Cacao's wide use as an important ingredient in the food and beverage industry further propels the market demand within 2020 to 2025⁵.

¹<https://theaseanpost.com/article/aseans-cocoa-bean-production-under-threat>

²<http://www.pcaf.da.gov.ph/wp-content/uploads/2022/06/Philippine-Cacao-Industry-Roadmap-2021-2025.pdf>

³<https://www.dti.gov.ph/archives/regional-archives/region-4a-news-regional-archives/dti-da-hold-forum-on-strengthening-ph-cacao-industry/>

⁴<https://www.da.gov.ph/2017-2022-cacao-and-coffee-industry-roadmaps/>

⁵<https://www.globenewswire.com/en/news-release/2020/12/02/2138092/28124/en/Insights-on-the-Cocoa-Powder-Global-Market-to-2025-by-Type-Application-Distribution-Channel-and-Geography.html>

The same study also predicted that due to the pandemic that resulted to lockdowns within Europe, West Africa, particularly Ivory Coast and Ghana – the top cacao and cocoa producing countries – led to the difficulty of the production of the products mentioned, which is further backed by a Fourth Quarter 2021 report of cocoa output decline in the mentioned West African countries⁶.

Consequently, it is high time for the Philippines to step up its productivity in cacao and cocoa products to not only reach the national demand but also work its way up to not only among the top ASEAN countries in terms of cacao and cocoa production, as well as among the top in the whole world.

Thus, this bill seeks to establish the National Cacao Authority as the legal body and leading agency for the further development of the cacao industry in the country and other matters thereof. The establishment of the Authority would also give our local farmers the opportunity to enter the cacao market and/or industry with the help of the national government.

Given the foregoing, immediate passage of this bill is earnestly sought.



TSUYOSHI ANTHONY "HORI" G. HORIBATA

⁶<https://www.confectionerynews.com/Article/2022/02/10/fourth-quarter-decline-in-cocoa-output-in-ghana-and-cote-d-ivoire-surprises-icco>

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AN ACT CREATING THE NATIONAL CACAO AUTHORITY TO ACCELERATE THE DEVELOPMENT OF THE CACAO INDUSTRY IN THE PHILIPPINES, PROVIDING FOR A CACAO DEVELOPMENT FUND, AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the “National Cacao Development Act of 2022”.

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to strive for national self-sufficiency in cacao and its products as a vital feature in the attainment of a self-reliant and independent Philippine economy in the provision of proper nutrition and the generation of more employment opportunities for the people. It is also the policy of the State to recognize the primary role of the private sector in research, training, production, processing, and marketing, and to provide incentives to those undertaking these activities, with the government limiting itself to policy-making, facilitation, and regulation.

Towards this end, the State shall create an agency tasked to help the private sector accelerate the development and growth of the Philippine cacao industry under the spirit of cooperativism in all stages of cacao production, processing, distribution, marketing, and other cacao-related activities, in such a way that market viability of cacao plants and products shall be ensured, focusing on developing breeds adapted to Philippine conditions. Likewise, the State shall help establish marketing networks and outlets, especially among and between processors and end-users, which may include the integration of local chocolate production with existing industrial cacao farms geared towards the sufficient production of local cacao for the needs of the people.

SEC. 3. *Objectives.* – The objectives of this Act are as follows:

- (a) To promote and provide direction for the accelerated development of the Philippine cacao industry, consistent with the provisions of this Act;
- (b) To give support and assistance in the production, processing, and marketing activities of all those engaged in the business of producing chocolate and other cacao products,

particularly rural-based small cacao farmers through the provision of necessary support systems;

(c) To encourage and promote the active participation of farm families, rural cooperatives, and the private sector recognizing them as principal agents in the development of the Philippine cacao industry;

(d) To ensure an adequate supply of cacao and other cacao products at affordable prices;

(e) To improve livelihood opportunities and thereby increase income levels through cacao planting and production;

(f) To provide market solutions for the issues and/or problems of the cacao industry in the country;

(g) To develop and disseminate appropriate smallholder-based cacao technology;

(h) To improve cacao production from existing stock and systematically program the build-up of productive chocolate factories; and

(i) To conserve foreign exchange by supporting local cacao production.

SEC. 4. *The National Cacao Authority.* – To achieve the objectives of this Act, there is hereby created a National Cacao Authority (NCA), hereafter referred to as the “Authority”, which shall, for the purpose of policy and program coordination, be attached to the Department of Agriculture.

The Authority shall be the central policy-determining and directing body tasked to ensure the accelerated development of the Philippine cacao industry, in accordance with the policies and objectives set forth in this Act.

SEC. 5. *The Cacao Industry Board.* – The National Cacao Authority shall be governed by a Cacao Industry Board, hereafter referred to as the “Board”, to be composed of the following:

(a) The Secretary of Agriculture, a chairperson;

(b) The NCA Administrator, as an *ex officio* member;

(c) The Secretary of Trade and Industry, as a member;

(d) The Secretary of Health, as a member;

(e) The Secretary of Education, Culture and Sports, as a member;

(f) The Secretary of Science and Technology, as a member;

(g) The Secretary of Agrarian Reform, as a member;

(h) The Director of the Philippine Cacao Industry Association, Inc., as a member; and

(i) Four (4) other members who shall be appointed by the President of the Philippines upon the recommendation of the chairperson: *Provided*, That one (1) shall come from the commercial cacao processors’ group and the other three (3) from the cacao cooperatives and/or private cacao organizations, with one representative each from Luzon, Visayas, and Mindanao: *Provided, further*, that they will hold office for a period of three (3) years from the date of their respective appointments without reappointment; *Provided, finally*, that any member appointed to a vacancy shall serve only for the unexpired term of the member whom he succeeds.

SEC. 6. *Powers and Functions of the National Cacao Authority.* – The National Cacao Authority shall have the following powers and functions:

a) To formulate and execute cacao programs that will generate a national impact on rural as well as urban nutrition levels and incomes;

- b) To assist in the purchase, importation, propagation, storage, distribution, and sale of cacao seeds, fertilizers, supplies, appropriate equipment, engineering supplies, and such other inputs as may be needed by the cacao industry;
- c) To encourage the integration of cacao production and local cacao and the distribution of cacao products into various rural livelihood and nutrition programs;
- d) To assume control and supervision over all cacao-related government agency personnel and programs, other cacao-related government agencies, divisions, and councils subject to the guidelines prescribed by the Civil Service Commission;
- e) To borrow, raise or obtain funds; to issue bonds and other instruments of indebtedness; or to enter into any financial or credit arrangement in order to support or carry out its objectives and purposes, subject to pertinent laws governing public debts and expenditures;
- f) To receive grants, subsidies, donations, or contributions from corporations, trusts, foundations, associations, and other sources from any private or government office, agency, or corporation in the Philippines or abroad;
- g) To establish, maintain or operate field units or offices in various parts of the country in order to utilize the objectives of this Act;
- h) To establish, maintain or operate local cacao processing centers in districts, cities, provinces, or regions that will meet the criteria which will be set by the Authority
- i) To help design and implement a credit system that will finance cacao farmers and cacao cooperatives or associations;
- j) To charge reasonable fees for services rendered for the attainment of the objectives of this Act;
- k) To promulgate rules and regulations to carry out the provisions and policy objectives of this Act;
- l) To adopt, alter and use a corporate seal; to sue and be sued; and otherwise, to do and perform all acts or exercise all powers as may be necessary or incidental to carry out the objectives of this Act; and
- m) To explore and expand the domestic and foreign markets for Cacao products and byproducts.

SEC. 7. *Meeting of the Board.* – The Board shall convene in a regular monthly meeting and shall hold special meetings when necessary. The presence of at least seven (7) members of the Board shall constitute a quorum and the vote of a majority of those present shall be sufficient to transact business during any meeting: *Provided*, That the department secretaries can be represented on a permanent basis by their respective undersecretaries or assistant secretaries who will have full voting power and shall be considered in the determination of quorum: *Provided, finally*, that the chairperson shall not vote except in case of a tie.

SEC. 8. *Allowance of the Board Members.* – The chairperson and members of the Board shall be entitled to *per diems* and other allowable emoluments as may be fixed by the Board for every meeting actually attended, subject to existing laws, rules, and regulations which, in no case, shall exceed ten thousand pesos (Php 10,000.00) per month: *Provided, however*, That the transportation expenses for representatives from far places will be reimbursed: *Provided, finally*, That the Administrator of the Authority, as an *ex officio* member of the Board, shall receive only the remuneration and allowances which shall be provided by the Board for the said position.

Whenever the exigencies of the service demand, and the Board, for any valid reason, cannot be convened to a meeting, the Administrator, in coordination with the Board Secretary, is hereby authorized to submit any matter for resolution by memorandum and the concurrence of a majority of the Board members and/or alternates constituting a quorum shall be considered sufficient for the approval thereof.

SEC. 9. Management of the Authority. – There shall be a full-time Administrator who shall manage the operations of the Authority, to be assisted by a Deputy Administrator. Both the Administrator and the Deputy Administrator shall be appointed by the President of the Philippines.

The Administrator shall be a citizen of the Philippines; at least thirty (30) years of age on the date of his appointment; of good moral character; with recognized executive ability and competence; and preferably well-versed in the various aspects of the cacao industry.

The salary and allowances of the Administrator and Deputy Administrator shall be in accordance with the provisions of R.A. 11466 or “Salary Standardization Law of 2019”.

SEC. 10. Powers and Functions of the Administrator. – Subject to the control and supervision of the Board, the Administrator shall have the following powers and functions:

- a) Submit policy recommendations and proposed measures necessary to carry out the objectives and functions of the Authority, for the consideration of the Board;
- b) Recommend to the Board, for approval, an organizational structure, and plantilla of personnel of the Authority, in accordance with existing laws, rules and regulations;
- c) Execute, administer and implement policies and measures approved by the Board;
- d) Submit to the Board, in line with the national budget cycle, an annual budget, and such supplemental budget as may be necessary for its consideration and approval;
- e) Represent the Authority in all its dealings with other persons, entities, agencies, and institutions whether public or private, domestic or foreign, subject to the limitations and conditions herein provided;
- f) Appoint, subject to the confirmation of the Board, and discipline or remove for cause in accordance with the civil service law, rules, and regulations, the officers and personnel of the Authority; and
- g) Perform such other duties which may be assigned to them by the Board or by the Secretary of the Department of Agriculture.

SEC. 11. Cacao Cooperative and Farmers’ Organizations. – The Authority shall help organize small producers and processors of cacao into cooperatives or other forms of organizations to achieve the purposes of this Act including the following:

- a) To facilitate collective arrangements that will enable cooperatives to acquire cacao seeds, plants and other supplies, materials, equipment, services of all kinds, and other cacao inputs under favorable terms;
- b) To provide a forum for the members of cooperatives to discuss common problems affecting production, marketing, and the cooperatives’ relationships with the Authority;
- c) To help design credit systems that will provide loans, grants, and such services as may be required, to cacao cooperatives and duly accredited people’s organizations;

d) To assist cooperatives in developing market channels and in negotiations for bulk outlets of chocolate output;

The authority shall support the formation of a Cacao Cooperatives Federation among cacao cooperatives as a channel of its coordinative function in the industry.

SEC. 12. *National Cacao Campaign.* – The Authority shall promote a nationwide campaign to boost support for the realization of the objectives of this Act. It shall encourage the participation of women’s groups in cacao and cacao-related projects including cacao plantation programs, village nutrition schemes, community-based processing, and marketing of chocolate and cacao products.

SEC. 13. *Priority Projects.* – Immediately after the approval of this Act, the Authority, in coordination with other related agencies, shall undertake vigorously the following:

a) Educational programs for cacao farmers and cacao cooperatives including, but not limited to, the conduct of seminars, workshops, assemblies, and others;

b) Training programs including, but not limited to, courses in horticulture, intercropping, seeds technology, cacao cooperatives management, and other related aspects of cacao planting;

c) Cacao research and development including but not limited to, horticulture, intercropping, seeds improvement, indigenous and agri-waste soil fertilizer sourcing, product development, cacao facilities fabrication, and others;

d) Establishment of support services to cacao farmers and cooperatives in the acquisition of basic supplies and inputs for plant health and nutrition; and

e) Boost the number and quality of local cacao seeds through applied technology.

SEC. 14. *Cacao Development Fund.* – To implement Section 13 of this Act, a Cacao Development Fund is created, which shall be used exclusively for the above-mentioned programs in the amount of Two hundred million pesos (Php 200,000,000) from the funds in the National Treasury not otherwise appropriated. Annually thereafter, the amount of not less than one hundred fifty million pesos (Php 150,000,000) shall be provided to augment the fund in the General Appropriations Act.

SEC. 15. *Government Agency Support.* – The Authority shall coordinate closely with other government agencies in the establishment of support services for the cacao industry, including, among others, needed infrastructure, and the setting of tariff rates to countervail subsidized imports.

SEC. 16. *Nutrition Programs.* – The government’s nutrition programs requiring chocolate and cacao products shall be sourced from small farmers and cacao cooperatives in coordination with the Authority.

SEC. 17. *Supply and Distribution.* – The Authority shall monitor the importation, manufacture, supply, and distribution of cacao products and raw materials for the manufacture or processing of chocolate and cacao products, as well as the importation and exportation of cacao seeds, if the needs of the industry requirements, it shall, after public hearing and after consultations with the National Economic and Development Authority, the Department of Trade and Industry, the Department of Finance, and the representatives of the cacao

cooperatives and the commercial sector, set guidelines for the importation, exportation, and pricing of cacao pods, cacao seeds, raw materials and other products necessary for the manufacture or processing of chocolate and cacao products: *Provided*, That within a period of three (3) years from the effectivity of this Act, the cacao cooperatives and the commercial sector shall, subject to quality and price considerations, mutually agree upon a volume of local chocolate production to be absorbed by the commercial sector.

If at the end of the three-year period, the parties mentioned above have not come to a mutual agreement, the commercial sector shall absorb a fixed portion of the local cacao and/or chocolate supply to be determined by the Authority.

Processors who purchase locally produced chocolate from cacao cooperatives in excess of the volume prescribed by the Authority shall be accorded tax credits equivalent to ten percent (10%) of the value of the excess volume purchased.

SEC. 18. *Exemption from Taxes and Duties.* – The authority shall be exempt from the payment of customs duties and taxes on the importation of cacao pods, cacao seeds, cacao plants, fertilizers and other supplies, other farm inputs, cacao equipment, and machinery, including its spare parts, for distribution to cacao cooperatives subject to the following conditions:

- (1) That said equipment and machinery, including its spare parts, are not manufactured domestically in sufficient quantity, of comparable quality, and at reasonable prices;
- (2) That it shall be actually, directly and exclusively used by the cacao cooperatives in the manufacture of its products;
- (3) That it shall not be disposed of within three (3) years from acquisition, without prior approval of the Authority; and
- (4) If it will be subsequently sold, transferred, or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the customs duties and internal revenue taxes due on such importations. The customs duties and internal revenue taxes due on such articles shall constitute a lien on the article itself, superior to all other charges or liens, irrespective of the possessors thereof.

Any donation, contribution, bequest, subsidy, or financial aid which may be made to the Authority shall constitute an allowable deduction from the income of the donor for income tax purposes and shall be exempt from donor's tax, subject to such conditions as provided under the National Internal Revenue Code, as amended.

Small farmers and small farmers' cacao cooperatives shall be exempt from all taxes on proceeds from the sale of raw cacao and chocolate products.

Chocolate processors shall enjoy a presumptive input tax credit of four percent (4%) of the value of their gross purchases from small farmers and small farmers' cacao cooperatives.

SEC. 19. *Credit Facilities.* – The *Bangko Sentral ng Pilipinas* shall adopt monetary and re-discounting policies designed to encourage rural banks, savings and loan associations, commercial banks, and other credit institutions to meet the financing and credit needs essential to achieve the objectives of this Act.

In addition, the Philippine National Bank, the Land Bank of the Philippines, and the Development Bank of the Philippines shall design and establish special lending programs at affordable terms for small cacao farmers and cacao cooperatives.

SEC. 20. *Auditor.* – The authority shall have an auditor and complementary personnel who shall be appointed by the Commission on Audit in accordance with the civil service law, rules, and regulations. The salaries of the auditor and the audit staff shall be determined and paid by the Commission on Audit.

SEC. 21. *Penalty Clause.* – Any person or entity found guilty of violating any provision of this Act, shall be sentenced to imprisonment of not more than six (6) months or a fine of not more than twenty thousand pesos (Php 20,000.00) or both upon the discretion of the Court.

SEC. 22. *Promulgation of Rules and Regulations.* – The Department of Agriculture, in coordination with the member agencies and the private sector representatives of the Cacao Industry Board shall prepare and issue the rules and regulations implementing this Act within six (6) months from the date of its effectivity.

In addition, the Secretary of the Department of Agriculture (DA) shall report to both Houses of Congress on the status of the promulgation of the rules and regulations within ninety (90) days from the date of the effectivity of this Act.

SEC. 23. *Appropriations.* – The appropriations of agencies, divisions, councils, and corporations, merged, abolished, or transferred pursuant to this Act shall be turned over to the Authority. Thereafter, such sums as may be necessary for its continued operation and maintenance shall be included in the annual General Appropriations Act.

SEC. 24. *Repealing Clause.* – All laws, decrees, executive orders, rules, and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 25. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, other provisions thereof which are not affected thereby shall continue in full force and effect.

SEC. 26. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or any newspaper of general circulation.

Approved,