

REPUBLIC OF THE PHILIPPINES

House of Representatives

Quezon City

NINETEENTH CONGRESS

First Regular Session



House Bill No. 6622

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Introduced by REP. MERCEDES K. ALVAREZ, MNSA

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#### EXPLANATORY NOTE

The current maritime issues against our neighboring countries have grown enough to require the State to strengthen its defense assets and capabilities to continuously secure our territory and natural resources.

This bill seeks to revitalize and institutionalize a Philippine Self-Reliant Defense Posture Program, which has started its birth during the 1970s and even reinforced by initiatives such as the Armed Forces of the Philippines (AFP) Modernization Law.

This bills also proposes the development of a National Defense Industry which will prioritize domestic manufacturing and sales, utilize domestic resources in the manufacture of military equipment and armaments, generate local employment, and reduce foreign exchange outflow and import tax burdens. It also aims to taper the military's dependence on foreign governments for defense requirements.

As this bill has been approved on Third and Final Reading during the Eighteenth Congress, immediate passage of this is highly recommended.

  
MERCEDES K. ALVAREZ MNSA  
Sixth District, Negros Occidental

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**AN ACT**

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

*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 Self-Reliant Defense Posture Program Act”.

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

In view thereof, the State shall endeavor to develop a National Defense Industry, hereinafter referred to as Industry, as an indispensable element of national defense. The State recognized that:

- (a) The industry plays a vital role in nation-building in the achievement of the national vision of an independent and self-reliant sovereign state, capable of providing its own resources for defense, security, and national survival, specifically during war and other national emergencies;
- (b) The active participation of development of collaborative partnerships with the private sector is an important strategy in the development of a viable, world-class defense industry and that the grant of incentives for such participation can help ensure the sector’s meaningful contribution thereto;
- (c) The continued observance of the “Filipino First “ policy in developing the Philippines’ defense capability is consistent with the country’s national security aspirations; and,

- (d) The Philippines has adequate human and other resources that can help ensure the adequate supply of affordable, globally-competitive, high-quality defense implements, equipment, machinery, systems and solutions, conduct defense technology research, provide and develop defense-related technology, as well as engineering and design education and training services that are necessary to the development of the Industry.
- (e) Science and technology, academic research and development institutions, and technology transfer all play an important role in the development of effective defense capabilities, the undertaking of successful defense missions, and the achievement of peace and meaningful modernization.

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

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

- (a) Acquisition refers to the management and procurement process of the government that helps ensure the proper and timely investment in technologies, programs and product support necessary for the purposes of the Philippine Armed Forces in promoting national defense and security. It shall include the acquisition of raw material, competent human resources, critical components and material;
- (b) Countertrade refers to international trade by exchange of goods rather than by currency purchase;
- (c) Critical components refer to components, systems, subsystems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of equipment identified as being essential to the execution of any national defense and national security strategy.
- (d) Highest rated bid refers to the offer with the highest calculated rating based on the criteria and parameters not limited to capability, quality, timeliness of delivery, life cycle cost, after-sales support, transfer of technology, warranty, prerequisites and price;
- (e) In-country enterprise refers to a Filipino-owned enterprises engaged in the manufacturing, servicing and operation of material in the Philippines, or to a foreign-owned enterprise engaged in the manufacturing-servicing, and operation of material, and which has located a substantial portion of its production activities within the Philippines;
- (f) Integrated logistics support refers to an integrated and iterative process for developing material and a support strategy that optimizes functional support, leverages existing resources, and guides the system engineering process to

- quantify and lower life cycle cost and decrease the logistics footprint, making the system easier to support;
- (g) Material refers to military technology, materials and equipment, including arms and ammunition and combat clothing;
  - (h) Minimum local content refers to the minimum percentage of intermediate goods used in the manufacturing processes to be sources from in-country enterprises;
  - (i) National defense refers to the policies, measures and initiatives intended to provide the necessary protection to the State against external and internal threats;
  - (j) National security refers to a state or condition wherein the people's welfare, well-being, way of life; government and its institutions; territorial integrity; sovereignty; and core values are enhanced and protected;
  - (k) Servicing refers to the process of maintaining repairing or overhauling material;
  - (l) Strategic Investments Priorities Plan (SIPP) refers to the government's list of priority areas and preferred activities that shall be entitled to tax incentives under law

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

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

- (a) The foreign support for defense requirements shall be subject to this Act and the policies approved by the President;
- (b) To develop the defense capability of the country, the State shall:
  - (1) Rely primarily on and give preference to in-country enterprises, allocate substantial resources and manpower to defense research, and provide relevant technical and financial assistance to the private sector;
  - (2) Utilize to the fullest the country's natural resources as the source of the country's defense needs, and rely on material readily available, produced, manufactured or otherwise created locally; and,
  - (3) Use material from foreign sources only when such material cannot be locally produced, manufactured or otherwise created: Provided, That,

- importation from such foreign sources shall be for the ultimate objective of acquiring technology for the production of such unavailable material;
- (c) In order to reduce foreign exchange outflow, generate local employment opportunities, and enhance technology transfer to the Philippines, the Secretary of national Defense, hereinafter referred to as Secretary, shall, as far as practicable, incorporate in each agreement involving the government the manufacturing, servicing or operation of material special foreign exchange reduction schemes and countertrade, in-country manufacture co-production, or other innovative arrangements or combinations thereof.

#### **SEC. 6. Incentives. –**

- (a) Any provision of law to the contrary notwithstanding, foreign and local enterprises engaged or proposing to engage in the manufacture, servicing and operation of material for the government may be registered and may avail of the incentives under and subject to the conditions in the National Internal Revenue Code of 1997, as amended: Provided, That the manufacture, servicing, and operation of material for the government as an industry sector, or its subsectors shall undergo the standard processes involved in the identification of preferred activities under the Strategic Investments Priorities Plan (SIPP) and shall be accompanied by a cost- benefit analysis showing the need for incentives.
- (b) Government financial institutions shall support the industry by formulating and extending financial products that would hasten its development.

#### **SEC. 7. Rationalization of Defense Acquisition. –**

- (a) Any provision of law to the contrary notwithstanding, the Secretary, on behalf of the government, is hereby authorized to enter into contracts, under such terms and conditions as may be agreed upon, with any natural or judicial person, with or without public bidding, for the manufacture, servicing or operation of material or components thereof, facilities, utilities and appurtenances thereto necessary for national defense: Provided, That, in the exercise of such authority, the Secretary shall comply with the reportorial requirements under Section 13 of this Act.
- (b) Any provision of law to the contrary notwithstanding, contracts for the manufacture, procurement of services of local providers, servicing or operation of material or components thereof, facilities, utilities and appurtenances thereto which are necessary for national defense and which are determined by the Secretary as not requiring public bidding, shall only be awarded to in-country enterprises; Provided, That such

material or components thereof, facilities, utilities and appurtenances thereto can be locally produced, manufactured or otherwise created.

- (c) In the event that a public bidding is required by the Secretary, and the manufacture, servicing, or operation of material or components thereof, facilities, utilities and appurtenances thereto which are necessary for national defense cannot be locally produced, manufactured, or otherwise created, and whenever several bidders shall participate in the bidding, the following principles shall be observed in the evaluation of the criteria on price, when comparing foreign enterprises with in-country enterprises:
  - (1) In the event a public bidding utilizes the standard of lowest and calculated and responsive bid, the bids of in-country enterprises shall be considered as having a price less than that proposed by foreign enterprises as long as such bids shall not be more than fifteen percent (15%) in excess of the bid of such foreign enterprise; and,
  - (2) 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 as long as such bids shall not be more than fifteen percent (15%) in excess of the bid of such foreign enterprise.
- (d) In the event that public bidding is required by the Secretary, and the manufacture, servicing or operation of material or components thereof, facilities, utilities and appurtenances thereto which are necessary for national defense cannot be locally produced, manufactured or otherwise created, and only foreign enterprises participate, the Department shall have the ultimate objectives of acquiring and transferring technology and knowledge, and generating local enterprise towards the eventual local production of such material or components thereof.
- (e) Nothing in this Act shall prohibit or restrict lawful government-to-government transactions for the manufacture, servicing or operation of material or components thereof, facilities, utilities and appurtenances thereto, which are necessary for national defense.
- (f) The Department, in consultation with representatives of in-country enterprises shall issue reasonable regulations on the minimum local content for all defense-related acquisitions, The Department may consult with other government agencies to determine such minimum local content. To support the economic and employment generation thrusts of the country, all manpower needs of the industry requiring the engagement or hiring of civilian labor shall be sourced locally and, as far as practicable, be Filipino.
- (g) Logistics support must be incorporated in all contracts on defense-related acquisitions.

**SEC. 8. Multi-Year Contracts and Other Contractual Arrangements.-**

**For the** purpose of material acquisition, notwithstanding existing laws to the contrary, and subject to Section 13 of this Act, the Department and its bureau shall be authorized to enter into multi-year contracts and other multi-year contractual arrangements: Provided, That Congress shall, upon issuance of a multi-year obligation authority by the Department of Budget and Management (DBM), make the corresponding appropriation for the ensuing fiscal years: Provided further, That the Department shall, in consultation with the DBM, issue implementing guidelines to ensure consistency with the Revised AFP Modernization Program and this Act: Provided furthermore, That the Department and its bureaus shall coordinate and conduct acquisition planning for the purpose of implementing multi-year contractual arrangements and other multi-year obligations. Provided finally, That the DBM shall expedite the issuance of multi-year obligation authorities necessary:

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

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

**SEC. 11. Exemption from the SLCC requirement. –** In-country enterprises participating in the acquisition of material by the Department and its bureaus shall, upon the effectivity of this Act, be exempt from the single Largest Completed Contract (SLCC) requirement as provided for under Sec. 23.5.1.3 of the revised rules and regulations issued to implement Republic Act No. 9184, otherwise known as the Government Procurement Reform Act.

**Sec. 12. Creation of the Office of the Undersecretary for Defense Technology Research and Industry Development. –** There is hereby created in the Department an Office of the Undersecretary for Defense Technology Research and Industry Development. The Office shall be headed by an officer with the rank of Undersecretary, assisted by an Assistant Secretary, and supported by at least three (3) directors with the equivalent rank of Director IV. The Office will be charged with the responsibility of managing and administering a databank for analysis, conducting research and development and technology transfer,

facilitating defense industry promotion, establishing public-private partnership, and setting up domestic and foreign collaborations, and advising, recommending policies, rules and regulations to the Secretary on all matters pertaining to the development of the industry and the implementation of this Act. Such Undersecretary, Assistant Secretary and directors shall be appointed by the President of the Philippines.

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

- (a) An annual report on the acquisitions made under this Act; and,
- (b) Copies of the multi-year contracts and other agreements entered into by the Department and its bureaus.

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

- (1) The NEDA shall conduct an annual review of the status of all defense-related acquisitions exercised by the Secretary in Section 7 of this Act, identify causes of delays, the reasons for bottlenecks, actual and prospective cost overruns, determine the continued viability of the SRDP and the industry, and submit its findings and recommendations to the Congress not later than June 30 of each year;
- (2) The Commission on Audit shall conduct an audit on each ongoing and completed acquisition and render a report to the Congress thereon not later than June 30 each year; and,
- (3) There shall be a Congressional Oversight Committee composed of the Chairpersons of the Committee on National Defense and Security of both Senate and House of Representatives who shall serve as Co-Chair persons of Oversight Committee, the Chairpersons of the Committee on Ways and Means of both Senate and House of Representatives who shall serve as Co-Vice-Chairpersons, four (4) members each from the Senate and the House representing the majority and two (2) members each from the Senate and the House representing in minority to be designated by the leaders of the majority and minority in their respective chambers.

**Sec. 15. Cooperation of Government Agencies** – The DBM, DOF, BOI, Government Procurement Policy Board (GPPB) and other government agencies are enjoined to support the provisions of this Act. The Department and its bureaus, in procedures to support the objectives of the SDRP and the acquisition of material under this Act.

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

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

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

**Sec. 19. Implementing Rules and Regulations; Supplementary Regulations** - The Secretary shall issue the necessary rules and regulations and standard forms for the effective implementation of this Act and issue supplemental regulations to facilitate its implementation.

**Sec. 20. Separability Clause.** – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

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

- (a) An exception to Government Procurement Policy Board Resolution No. 06-2003 in relation to its amendment to Section 1 of Presidential Decree No. 415 shall be observed with respect to provisions of the specific law;
- (b) An exception to Republic Act No. 10667, otherwise known as the Philippine competition Law, in relation to its repeal of Section 4 of Commonwealth Act No. 138, entitled “An Act to Give Native Products and Domestic Entities the preference in the Purchase of Articles for the Government” shall be observed with respect to provisions of this specific law;
- (c) An exception to Republic Act No. 9184 insofar as it covers procurement of material shall be observed;
- (d) An exception to Republic Act No. 1884 entitled, “An Act to Establish a Government Arsenal, Provide for its Operation and Other Purposes”, insofar as the exercise of the responsibility of the Office of the Undersecretary of Defense for Munitions in research and development; and,
- (e) Section 9 of Republic Act No. 7898 entitled, “An Act Providing for the Modernization of the armed forces of the Philippines and for other purposes”, as amended by section 5 of Republic Act No. 10349 entitled, “An Act Amending Republic Act No. 7898, Establishing the Revised AFP Modernization Program and for Other Purposes” us hereby modified.

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

**Sec. 22. Effectivity.** – This Act shall take effect after fifteen (15) days from its publication in the official Gazette or in a newspaper of national circulation.

**Approved,**

