



HOUSE OF REPRESENTATIVES

H. No. 10453

BY REPRESENTATIVES GARCIA (J.E.), CABOCHAN, SY-ALVARADO, GASATAYA, QUIMBO, BIAZON, NOGRALES (J.J.), BRAVO, TEJADA, ROQUE, PLAZA, SANCHEZ, PACQUIAO (A.), SALCEDA, DAGOOC, OLIVAREZ, ESCUDERO, CRISOLOGO, PADIERNOS, FUENTEBELLA, EBCAS, SUANSING (E.), BASCUG, LACSON, GARIN (S.), ONG (R.), GARCIA (P.J.), PADUANO, GO (M.), DELOSO-MONTALLA, SACDALAN, RODRIGUEZ, DEFENSOR (L.), SINGSON-MEEHAN, LOPEZ, CO (A.N.), HARESCO, AGABAS, DY (F.M.C.), SALO, TAMBUNTING, GONZALES (A.), KHO (W.), SAVELLANO, DE VENECIA, REYES, SUANSING (H.), CHIPECO, VIOLAGO, LAGON, TUPAS AND DALIPE, PER COMMITTEE REPORT NO. 1309

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:

1 SECTION 1. *Short Title.* – This Act shall be known as the “Philippine Self-Reliant
2 Defense Posture Program Act”.

3

4 SEC. 2. *Declaration of Policy.*– It is hereby declared the policy of the State to
5 promote and spur the growth of an independent national defense by establishing a
6 self-reliant defense posture program that shall prioritize the development of the

1 country's national defense capabilities, including a competent domestic defense
2 industry.

3

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

7

8 (a) The industry plays a vital role in nation-building in the achievement of
9 the national vision of an independent and self-reliant sovereign state,
10 capable of providing its own resources for defense, security, and national
11 survival, specifically during war and other national emergencies;

12 (b) The active participation of development of collaborative partnerships
13 with the private sector is an important strategy in the development of a
14 viable, world-class defense industry and that the grant of incentives for
15 such participation can help ensure the sector's meaningful contribution
16 thereto;

17 (c) The continued observance of the "*Filipino First*" policy in developing the
18 Philippines' defense capability is consistent with the country's national
19 security aspirations; and,

20 (d) The Philippines has adequate human and other resources that can help
21 ensure the adequate supply of affordable, globally-competitive, high-
22 quality defense implements, equipment, machinery, systems and
23 solutions, conduct defense technology research, provide and develop
24 defense-related technology, as well as engineering and design education
25 and training services that are necessary to the development of the
26 Industry.

27 (e) Science and technology, academic research and development
28 institutions, and technology transfer all play an important role in the
29 development of effective defense capabilities, the undertaking of
30 successful defense missions, and the achievement of peace and
31 meaningful modernization.

1 Therefore, to foster the progressive growth of the industry and hasten defense
2 self-sufficiency, the government shall strengthen and revitalize the Self-Reliant
3 Defense Posture Program (SRDP), incentivize private sector participation in the
4 Industry, rationalize defense acquisition, and create the Office of the Undersecretary
5 for Defense Technology Research and Industry Development
6

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

8 (a) *Acquisition* refers to the management and procurement process of the
9 government that helps ensure the proper and timely investment in
10 technologies, programs and product support necessary for the purposes of
11 the Philippine Armed Forces in promoting national defense and security. It
12 shall include the acquisition of raw material, competent human resources,
13 critical components and materiel;

14 (b) *Countertrade* refers to international trade by exchange of goods rather
15 than by currency purchase;

16 (c) *Critical components* refer to components, systems, subsystems, and
17 related special tooling and test equipment essential to the production,
18 repair, maintenance, or operation of weapon systems or other items of
19 equipment identified as being essential to the execution of any national
20 defense and national security strategy.

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

25 (e) *In-country enterprise* refers to a Filipino-owned enterprises engaged in the
26 manufacturing, servicing and operation of materiel in the Philippines, or to
27 a foreign-owned enterprise engaged in the manufacturing, servicing, and
28 operation of materiel, and which has located a substantial portion of its
29 production activities within the Philippines;

30 (f) *Integrated logistics support* refers to an integrated and iterative process
31 for developing materiel and a support strategy that optimizes functional
32 support, leverages existing resources, and guides the system engineering

1 process to quantify and lower life cycle cost and decrease the logistics
2 footprint, making the system easier to support;

3 (g) *Materiel* refers to military technology, materials and equipment, including
4 arms and ammunition and combat clothing;

5 (h) *Minimum local content* refers to the minimum percentage of intermediate
6 goods used in the manufacturing processes to be sourced from in-country
7 enterprises;

8 (i) *National defense* refers to the policies, measures and initiatives intended
9 to provide the necessary protection to the State against external and
10 internal threats;

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

14 (k) *Servicing* refers to the process of maintaining, repairing or overhauling
15 materiel;

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

19
20 **SEC. 4. *Self-Reliant Defense Posture Program.*** – The Self-Reliant Defense
21 Posture Program is hereby established and instituted as the tool of the State to
22 undertake the development of a national defense industry. The underlying concept of
23 self-reliance shall be manifested in the continued preference on local production when
24 feasible, of materiel for the country's defense forces through the partnership between
25 the military and civilian establishments, and taking the recourse to importation only
26 for those requirements that cannot be locally produced with the ultimate objective of
27 acquiring the technology for the production of these materiel. Paramount to the
28 attainment of this objective is the responsibility of the military and other government
29 agencies to provide technical and financial assistance to civilian defense
30 manufacturers.

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

3 (a) The foreign support for defense requirements shall be subject to this Act
4 and the policies approved by the President;

5 (b) To develop the defense capability of the country, the State shall:

6 (1) Rely primarily on and give preference to In-country enterprises, allocate
7 substantial resources and manpower to defense research, and provide
8 relevant technical and financial assistance to the private sector;

9 (2) Utilize to the fullest the country’s natural resources as the source of the
10 country’s defense needs, and rely on materiel readily available,
11 produced, manufactured or otherwise created locally; and,

12 (3) Use materiel from foreign sources only when such materiel cannot be
13 locally produced, manufactured or otherwise created: *Provided,* That,
14 importation from such foreign sources shall be for the ultimate objective
15 of acquiring technology for the production of such unavailable materiel;

16
17 (c) In order to reduce foreign exchange outflow, generate local employment
18 opportunities, and enhance technology transfer to the Philippines, the
19 Secretary of National Defense, hereinafter referred to as Secretary, shall, as
20 far as practicable, incorporate in each agreement involving the government
21 the manufacturing, servicing or operation of materiel special foreign
22 exchange reduction schemes and countertrade, in-country manufacture co-
23 production, or other innovative arrangements or combinations thereof.

24
25 SEC. 6. *Incentives.* –

26 (a) Any provision of law to the contrary notwithstanding, foreign and local
27 enterprises engaged or proposing to engage in the manufacture, servicing
28 and operation of materiel for the government may be registered and may
29 avail of the incentives under and subject to the conditions in the National
30 Internal Revenue Code of 1997, as amended: *Provided,* That the
31 manufacture, servicing, and operation of materiel for the government as an
32 industry sector, or its subsectors shall undergo the standard processes

1 involved in the identification of preferred activities under the Strategic
2 Investments Priorities Plan (SIPP) and shall be accompanied
3 by a cost-benefit analysis showing the need for incentives.
4

5 In the interest of national security, the Board of Investments (BOI) shall
6 adopt a special procedure in the processing of applications for registration
7 of enterprises that desire to participate in the Industry and offer goods or
8 services to the government under the SRDP.
9

10 (b) Government financial institutions shall support the industry by formulating
11 and extending financial products that would hasten its development.
12

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

14 (a) Any provision of law to the contrary notwithstanding, the Secretary, in
15 behalf of the government, is hereby authorized to enter into contracts,
16 under such terms and conditions as may be agreed upon, with any natural
17 or juridical person, with or without public bidding, for the manufacture,
18 servicing or operation of materiel or components thereof, facilities, utilities
19 and appurtenances thereto necessary for national defense: *Provided, That,*
20 in the exercise of such authority, the Secretary shall comply with the
21 reportorial requirements under Section 13 of this Act.

22 (b) Any provision of law to the contrary notwithstanding, contracts for the
23 manufacture, procurement of services of local providers, servicing or
24 operation of materiel or components thereof, facilities, utilities and
25 appurtenances thereto which are necessary for national defense and which
26 are determined by the Secretary as not requiring public bidding, shall only
27 be awarded to in-country enterprises; *Provided, That* such materiel or
28 components thereof, facilities, utilities and appurtenances thereto can be
29 locally produced, manufactured or otherwise created.

30 (c) In the event that a public bidding is required by the Secretary, and the
31 manufacture, servicing, or operation of materiel or components thereof,
32 facilities, utilities and appurtenances thereto which are necessary for

1 national defense cannot be locally produced, manufactured, or otherwise
2 created, and whenever several bidders shall participate in the bidding, the
3 following principles shall be observed in the evaluation of the criteria on
4 price, when comparing foreign enterprises with in-country enterprises:

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

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

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

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

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

30 To support the economic and employment generation thrusts of the
31 country, all manpower needs of the industry requiring the engagement or

1 hiring of civilian labor shall be sourced locally and, as far as practicable, be
2 Filipino.

3
4 (g) Logistics support must be incorporated in all contracts on defense-related
5 acquisitions.

6
7 *SEC. 8. Multi-Year Contracts and Other Contractual Arrangements.* – For the
8 purpose of materiel acquisition, notwithstanding existing laws to the contrary, and
9 subject to Section 13 of this Act, the Department and its bureaus shall be authorized
10 to enter into multi-year contracts and other multi-year contractual arrangements:
11 *Provided,* That Congress shall, upon issuance of a multi-year obligation authority by
12 the Department of Budget and Management (DBM), make the corresponding
13 appropriation for the ensuing fiscal years: *Provided further,* That the Department shall,
14 in consultation with the DBM, issue implementing guidelines to ensure consistency
15 with the Revised AFP Modernization Program and this Act: *Provided furthermore,* That
16 the Department and its bureaus shall coordinate and conduct acquisition planning for
17 the purpose of implementing multi-year contractual arrangements and other multi-
18 year obligations. *Provided finally,* That the DBM shall expedite the issuance of multi-
19 year obligation authorities as necessary:

20
21 *SEC. 9. Performance Undertakings.* – The Department of Finance (DOF) is
22 authorized to recognize the obligations of the Department and its bureaus with respect
23 to acquired materiel as obligations of the Republic of the Philippines and to undertake
24 to pay the same in the event of non-payment by the Department and its bureaus.

25
26 *SEC. 10. Countertrade.* – Countertrade for defense-related acquisition shall be
27 significant, meaningful and must be of benefit to the Industry.

28
29 *SEC. 11. Exemption from the SLCC requirement.* – In-country enterprises
30 participating in the acquisition of materiel by the Department and its bureaus shall,
31 upon the effectivity of this Act, be exempt from the Single Largest Completed Contract
32 (SLCC) requirement as provided for under Sec. 23.5.1.3 of the revised rules and

1 regulations issued to implement Republic Act No. 9184, otherwise known as the
2 Government Procurement Reform Act.

3
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
18 SEC. 13. *Reporting and Oversight.* – The Secretary shall, not later than the end
19 of the first quarter of the succeeding year, submit to the President and the Congress:

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

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

- 28 (1) The NEDA shall conduct an annual review of the status of all defense-related
29 acquisitions exercised by the Secretary in Section 7 of this Act, identify
30 causes of delays, the reasons for bottlenecks, actual and prospective cost
31 overruns, determine the continued viability of the SRDP and the industry,

1 and submit its findings and recommendations to the Congress not later than
2 June 30 of each year;

3 (2) The Commission on Audit shall conduct an audit on each ongoing and
4 completed acquisition and render a report to the Congress thereon not later
5 than June 30 each year; and,

6 (3) There shall be a Congressional Oversight Committee composed of the
7 Chairpersons of the Committee on National Defense and Security of both
8 Senate and House of Representatives who shall serve as Co-Chairpersons
9 of the Oversight Committee, the Chairpersons of the Committee on Ways
10 and Means of both Senate and House of Representatives who shall serve as
11 Co-Vice-Chairpersons, four (4) members each from the Senate and the
12 House representing the majority and two (2) members each from the
13 Senate and the House representing the minority to be designated by the
14 leaders of the majority and minority in their respective chambers.

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

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

26
27 SEC. 16. *Appropriations.* – The amount necessary for the effective
28 implementation of this Act shall be charged to the appropriations of the Department
29 of National Defense under the current General Appropriations Act. Thereafter, such
30 sum as may be necessary for its continued implementation shall be included in the
31 annual General Appropriations Act.

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

6
7 SEC. 18. *Rule of Interpretation.* – Rights and obligations existing on the date of
8 effectivity of this Act and arising out of contracts shall be governed by the original
9 terms and conditions of said contracts or the law in force at the time such rights were
10 vested.

11
12 SEC. 19. *Implementing Rules and Regulations; Supplementary Regulations.*–
13 The Secretary shall issue the necessary rules and regulations and standard forms for
14 the effective implementation of this Act and issue supplemental regulations to facilitate
15 its implementation.

16
17 SEC. 20. *Separability Clause.* – If any provision of this Act shall be held
18 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
19 full force and effect.

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

26 (a) An exception to Government Procurement Policy Board Resolution No. 06-
27 2003 in relation to its amendment to Section 1 of Presidential Decree No.
28 415 shall be observed with respect to provisions of this specific law;

29 (b) An exception to Republic Act No. 10667, otherwise known as the Philippine
30 Competition Law, in relation to its repeal of Section 4 of Commonwealth Act
31 No. 138, entitled “An Act To Give Native Products And Domestic Entities The
32 Preference In The Purchase Of Articles For The Government” shall be
33 observed with respect to provisions of this specific law;

1 (c) An exception to Republic Act No. 9184 insofar as it covers procurement of
2 materiel shall be observed;

3 (d) An exception to Republic Act No. 1884 entitled, "An Act To Establish A
4 Government Arsenal, Provide For Its Operation And For Other Purposes",
5 insofar as the exercise of the responsibility of the Office of the
6 Undersecretary of Defense for Munitions in research and development; and,

7 (e) Section 9 of Republic Act No. 7898 entitled, "An Act Providing For The
8 Modernization Of The Armed Forces Of The Philippines And For Other
9 Purposes", as amended by Section 5 of Republic Act No. 10349 entitled, "An
10 Act Amending Republic Act No. 7898, Establishing the Revised AFP
11 Modernization Program and for Other Purposes" is hereby modified.

12
13 All other provisions of existing laws, orders, and regulations contrary to or
14 inconsistent with this Act are hereby repealed or modified accordingly.

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

Approved,