


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



Senate
Office of the Secretary

'22 JUL 18 A9:42

SENATE
S. No. 682

RECEIVED BY: 

Introduced by Senator Jinggoy Ejercito Estrada

AN ACT
PROVIDING FOR THE DEVELOPMENT OF A NATIONAL DEFENSE INDUSTRY THROUGH THE STRENGTHENING AND REVITALIZING OF THE SELF RELIANT DEFENSE POSTURE (SRDP) PROGRAM, INCENTIVIZING IN COUNTRY ENTERPRISES, RATIONALIZING DEFENSE ACQUISITION, AND CREATING THE OFFICE OF THE UNDERSECRETARY FOR DEFENSE TECHNOLOGY RESEARCH AND INDUSTRY DEVELOPMENT UNDER THE DEPARTMENT OF NATIONAL DEFENSE, AND PROVIDING FUNDS THEREFOR

EXPLANATORY NOTE

There are two key interrelated reasons why countries develop a defense industry—strategic and economic (Bitzinger, Richard A, 2013)¹. Strategic reasons include ensuring security of supply to compensate for perceived strategic isolation, to prevent overdependence, or address vulnerability to sanctions; and for national prestige or “technonationalism” (Edgerton, David E.H, 2007)². Economic reasons include the promotion of backward linkages with other sectors such as steel and machine tools; development of “technology locomotives”; import-substitution which help preserve foreign currency reserves and create jobs; and lastly, hopes for export earnings.³

¹ Bitzinger, Richard A. "Revisiting Armaments Production in Southeast Asia: New Dreams, Same Challenges." *Contemporary Southeast Asia*, vol. 35, no. 3, 2013, p. 369, 10.1355/cs35-3c. Accessed 21 June 2019.

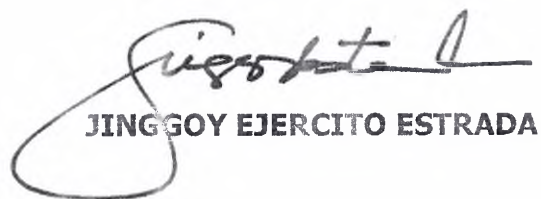
² Edgerton, David E.H. "The Contradictions of Techno-Nationalism and Techno-Globalism: A Historical Perspective." *New Global Studies*, vol. 1, no. 1, 31 Jan. 2007, 10.2202/1940-0004.1013.

³ "Opportunities and Challenges Facing Philippine Defense Industrial Development." NDCP, ndcp.edu.ph/opportunities-and-challenges-facing-philippine-defense-industrial-development/#_ednref5. Accessed 24 June 2022.

The Self Reliant Defense Posture (SRDP) Program was setup and established in 1974 under President Ferdinand Marcos to address the AFP's materiel requirements for counterinsurgency operations, aiming to establish the country's defense industry.

This bill seeks to reinvigorate and strengthen its objective for self-reliant defense capability or the Self Reliant Defense Posture (SRDP) Program. A defense industry that will sufficiently address the requirements for our country's desired defense buildup, to secure our sovereignty and national territory.

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




JINGGOY EJERCITO ESTRADA

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DEPARTMENT OF NATIONAL DEFENSE, AND PROVIDING FUNDS THEREFOR**

*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 "*Self-Reliance Defense*
2 *Posture Revitalization Act of 2022*".

3 Sec. 2. *Declaration of State Policy.* - The State declares the development of the
4 National Defense Industry as an indispensable element of national defense. Towards
5 this end, the State shall recognize the following:

6 (1) The vital role of the Industry in nation-building and that with respect to
7 government acquisition and incentives, the Industry is a class on its own that
8 must be prioritized;

9 (2) The necessity of an independent and self-reliant sovereign state, capable of
10 providing its own resources for defense, security and national survival as a
11 matter of national strategy, specifically during war and other national
12 emergencies;

13 (3) The consistency of the Filipino First Policy in developing national defense;

- 1 (4) The indispensability of the active participation of and collaborative
2 partnerships with the private sector in the strengthening of national defense
3 of the country; and,
4 (5) The capability of the Philippines in ensuring the adequate supply of affordable,
5 globally-competitive, quality and accessible defense implements, equipment,
6 machinery, systems and solutions, and in giving priority to stimulating and
7 maintaining defense technology research, science and technology education,
8 training and services, and defense industry development.

9 For this purpose, the Government shall strengthen and revitalize the Self Reliant
10 Defense Posture (SRDP) Program, incentivize private sector participation in the
11 Industry, rationalize defense acquisition, and create the Office of the Undersecretary
12 for Defense Technology Research and Industry Development which are all intended
13 to foster the progressive growth of the Industry and hasten defense self-sufficiency
14 of the country.

15 Further, the State recognizes the important role of science and technology,
16 academic research and development institutions, and technology transfer for
17 developing effective defense capabilities to respond and accomplish defense missions
18 and to drive genuine modernization.

19 *Sec. 3. Definition of Terms.* - For purposes of this Act, the terms below shall be
20 construed to mean, except when explicitly indicated or where the context clearly
21 indicates otherwise, as follows:

- 22 (a) *Acquisition* shall refer to the bureaucratic management and procurement
23 process dealing with the investment of the country in technologies, programs
24 and product support necessary to support national defense and security and
25 support its armed forces. It shall include the acquisition of raw material, critical
26 components and materiel.
27 (b) *AFP* shall refer to the Armed Forces of the Philippines.
28 (c) *Board* shall refer to the Board of Investments.
29 (d) *Countertrade* shall refer to international trade by exchange of goods rather than
30 by currency purchase.
31 (e) *Critical Components* shall refer to components, subsystems, systems, and
32 related special tooling and test equipment essential to the production, repair,

- 1 maintenance, or operation of weapon systems or other items of equipment
2 identified as being essential to the execution of any National Defense and
3 National Security strategy.
- 4 (f) *Department* shall refer to the Department of National Defense.
- 5 (g) *DOF* shall refer to the Department of Finance.
- 6 (h) *GPPB* shall refer to the Government Procurement Policy Board.
- 7 (i) *Government to Government Transactions* shall refer to contractual
8 arrangements between the Philippines and other sovereign nations for the
9 acquisition of materiel and other defense-related acquisitions.
- 10 (j) *Highest Rated Bid* shall refer to the offer with the highest calculated rating
11 based on the criteria/parameters not limited to capability, quality, timeliness of
12 delivery, life cycle cost, after-sales support, transfer of technology, warranty,
13 perquisites and price.
- 14 (k) *In-country Enterprises* shall refer to (1) Filipino-owned enterprises engaged in
15 the manufacturing, servicing and operation of materiel in the Philippines, or (2)
16 foreign-owned enterprises engaged in the manufacturing, servicing and
17 operation of materiel provided however, that such foreign-owned enterprises
18 shall locate a substantial portion of their production within the Philippines.
- 19 (l) *Industry* shall refer to the National Defense Industry.
- 20 (m) *Integrated Logistics Support* refers to an integrated and iterative process for
21 developing materiel and a support strategy that optimizes functional support,
22 leverages existing resources, and guides the system engineering process to
23 quantify and lower life cycle cost and decrease the logistics footprint, making
24 the system easier to support.
- 25 (n) *Manufacturing* refers to the process of converting raw materials, components,
26 or parts into finished materiel, whether using manpower, machines or a
27 combination thereof.
- 28 (o) *Materiel* shall refer to military technology, materials and equipment, including
29 but not limited to arms and ammunition and combat clothing.
- 30 (p) *Minimum Local Content* refers to the minimum percentage of intermediate
31 goods used in the manufacturing processes to be sourced from in-country
32 enterprises.

- 1 (q) *National Defense* refers to the policies, measures and initiatives intended to
2 provide the necessary protection of the State against external and internal
3 threats.
- 4 (r) *National Security* refers to the policies, measures and initiatives intended to
5 protect the interests of the country and to protect the State from all forms of
6 crises.
- 7 (s) *NEDA* shall refer to the National Economic and Development Authority.
- 8 (t) *Operating* refers to the process of functioning or operating of materiel or
9 facilities, utilities and appurtenances thereto which are necessary for the
10 manufacture, servicing or operating of materiel or components.
- 11 (u) *Plan* shall refer to the Investment Priorities Plan as provided in the Omnibus
12 Investment Code.
- 13 (v) *President* shall refer to the President of the Republic of the Philippines.
- 14 (w) *Private Sector* refers to the part of the country's economic system that is not
15 under direct government control.
- 16 (x) *Program* shall refer to the SRDP.
- 17 (y) *Raw Materials* refer to the basic material from which materiel is manufactured.
- 18 (z) *Secretary* shall refer to the Secretary of National Defense.
- 19 (aa) *Servicing* refers to the process of maintaining, repairing or overhauling
20 materiel.
- 21 (bb) *SLCC* shall refer to the Single Largest Completed Contract requirement
22 as provided in the implementing rules and regulations of Republic Act No. 9184.
- 23 (cc) *SRDP* shall refer to the Self Reliant Defense Posture as provided under
24 pertinent laws.

25 *Sec. 4. The National Defense Industry.* - For the interest of the nation, the
26 National Defense Industry shall be developed in accordance with the following:

- 27 (a) The dependence of the country on foreign support for defense requirements
28 shall be limited in accordance with this Act and/or the policies approved by the
29 President;
- 30 (b) To develop the defense capability of the country, the State shall rely primarily
31 on and give preference to developing In-Country Enterprises, allocating
32 substantial resources and manpower to defense research, utilizing to the fullest

- 1 the country's natural resources as the source of the country's defense needs,
2 and providing relevant technical and financial assistance to the private sector;
- 3 (c) To develop the defense capability of the country, the State shall rely on materiel
4 produced, manufactured or otherwise created locally;
- 5 (d) To develop the defense capability, the State shall only use materiel from foreign
6 sources when such materiel cannot be locally produced, manufactured or
7 otherwise created: Provided, that importation from such foreign sources shall
8 be for the ultimate objective of acquiring technology for the production of such
9 unavailable materiel;
- 10 (e) In order to reduce foreign exchange outflow, generate local employment
11 opportunities and enhance technology transfer to the Philippines, the Secretary
12 shall, as far as practicable, incorporate in each agreement involving the
13 Government and the manufacturing, servicing or operation of materiel special
14 foreign exchange reduction schemes and countertrade, in-country manufacture
15 co-production, or other innovative arrangements or combinations thereof; and,
- 16 (f) The Program shall be developed in accordance with the provisions of this Act.

17 *Sec. 5. Incentives.* - (A) Any provision of law to the contrary notwithstanding,
18 foreign and local enterprises engaged or proposing to engage in the manufacture,
19 servicing and/or operation of materiel for the Government may be registered and may
20 avail of the incentives under and subject to the conditions in Executive Order No. 226
21 otherwise known as the Omnibus Investments Code: *Provided*, That, notwithstanding
22 Article 27 thereof, manufacturing, servicing and/or operation of materiel shall be
23 included in the Investment Priorities Plan every year by operation of law after the
24 effectivity of this Act until otherwise removed by the Board or the President: *Provided*,
25 *further*, That the removal of the manufacturing, servicing and/or operation of materiel
26 from the Plan subsequent to the effectivity of this Act shall not be interpreted as a bar
27 or restriction on the Board from later including the manufacturing, servicing and/or
28 operation of materiel in the Plan.

29 In the interest of National Security, the Board shall adopt a special procedure
30 in the processing of applications for registration by enterprises in the Industry and
31 offering goods or services to the government under the Program.

1 (B) Government financial institutions are highly encouraged to support the
2 Industry by formulating and extending financial products that would benefit its
3 hastened development.

4 (C) In addition to the incentives provided in E.O. 226, foreign and local
5 enterprises engaged in the manufacture, servicing and/or operation of materiel
6 registered with the Board shall enjoy exemption from customs duties and national
7 internal revenue taxes payable on the importation of raw materials and critical
8 components by registered enterprises for the purpose of producing materiel.

9 *Sec. 6. Rationalization of Defense Acquisition.* - (A) Any provision of law to the
10 contrary notwithstanding, the Secretary, in behalf of the Government, is hereby
11 authorized to enter into contracts, under such terms and conditions as may be agreed
12 upon, with any natural or juridical person, with or without public bidding, for the
13 manufacture, servicing or operation of materiel or components thereof, facilities,
14 utilities and appurtenances thereto which are necessary for the manufacture, servicing
15 or operating of such materiel or components thereof necessary for national defense:
16 *Provided,* That in the exercise of such authority, the Secretary shall comply with the
17 reportorial requirements under Section 13 of this Act.

18 (B) Any provision of law to the contrary notwithstanding, contracts for the
19 manufacture, servicing or operation of materiel or components thereof, facilities,
20 utilities and appurtenances thereto which are necessary for the manufacture, servicing
21 or operating of such materiel or components thereof necessary for national defense
22 which are determined by the Secretary as not requiring public bidding shall only be
23 awarded to in-country enterprises: *Provided,* That such materiel or components
24 thereof, facilities, utilities and appurtenances thereto can be locally produced,
25 manufactured or otherwise created.

26 (C) In the event that public bidding is required by the Secretary, and the
27 manufacture, servicing or operation of materiel or components thereof, facilities,
28 utilities and appurtenances thereto which are necessary for the manufacture, servicing
29 or operating of such materiel or components thereof necessary for national defense
30 cannot be locally produced, manufactured or otherwise created, and whenever several
31 bidders shall participate in the public bidding, in the evaluation of the criteria on price,
32 when comparing foreign enterprises with in-country enterprises:

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

6 (2) In the event a public bidding utilizes the standard of highest rated bid,
7 bids of in-country enterprises shall be considered as having won the
8 criteria of price as long as its bid shall not be more than fifteen percent
9 (15%) in excess of the bid of such foreign enterprise.

10 (D) In the event that public bidding is required by the Secretary, and the
11 manufacture, servicing or operation of materiel or components thereof, facilities,
12 utilities and appurtenances thereto which are necessary for the manufacture, servicing
13 or operating of such materiel or components thereof necessary for national defense
14 cannot be locally produced, manufactured or otherwise created, and only foreign
15 enterprises participate, the ultimate objective of the Department will be technology
16 transfer and the acquiring of knowledge for eventual local production.

17 (E) Nothing in this Act will prohibit or restrict lawful government to government
18 transactions for the manufacture, servicing or operation of materiel or components
19 thereof, facilities, utilities and appurtenances thereto which are necessary for the
20 manufacture, servicing or operating of such materiel or components thereof necessary
21 for national defense.

22 (F) In Section 5(C), 5(D) and 5(E), the Department in consultation with
23 representatives of in-country enterprises will issue reasonable regulations on the
24 minimum local content for all defense-related acquisitions. The Department may
25 consult with other government agencies to determine such minimum local content.

26 Further, in order to support the economic and employment generation thrusts
27 of the country, all defense acquisitions requiring the engagement and/or hiring of
28 civilian labor shall mandatorily require that all labor needs be sourced from local
29 sources and shall, as far as practicable, be Filipino.

30 (G) In Section 5(C), 5(D) and 5(E), Integrated Logistics Support must be
31 incorporated in all contracts concerning defense-related acquisitions.

1 *Sec. 7. Multi-Year Contracts and Other Contractual Arrangements.* - For the
2 purpose of acquisition of materiel, notwithstanding existing laws to the contrary, and
3 subject to Section 13 of this Act, the Department and its bureaus shall be authorized
4 to enter into multi-year contracts and other multi-year contractual arrangements:
5 *Provided,* That Congress shall, upon issuance of a multi-year obligation authority by
6 the DBM, make the corresponding appropriation for the ensuing fiscal years: *Provided,*
7 *further,* That the Department, in consultation with DBM shall issue implementing
8 guidelines to ensure consistency with the Revised AFP Modernization Program and this
9 Act: *Provided, furthermore,* That understanding that the absence of multi-year
10 contracts is a primary reason for the poor development of the Industry, the DBM shall
11 cooperate with the Department in expediting the issuance of multi-year obligation
12 authorities as necessary: *Provided, finally,* That the Department and its bureaus are
13 directed to coordinate and to conduct acquisition planning for the purpose of
14 implementing multi-year contractual arrangements and other multi-year obligations.

15 *Sec. 8. Performance Undertakings.* - The DOF is authorized to recognize the
16 obligations of the Department and its bureaus with regard to the acquisition of materiel
17 as obligations of the Republic of the Philippines and to undertake to pay the same in
18 the event of non-payment by the Department and its bureaus.

19 *Sec. 9. Countertrade.* - Countertrade for defense-related acquisition shall be
20 significant, meaningful and must be of benefit to the Industry.

21 *Sec. 10. Exemption from SLCC.* - In-country enterprises participating in the
22 acquisition of materiel by the Department and its bureaus shall be exempt from the
23 SLCC requirement upon effectivity of this Act.

24 *Sec. 11. Acquisition System.* - Subject to the provisions of this Act, the system
25 and procedures for acquisition of materiel, with or without public bidding, shall be in
26 accordance with a special law on defense-related procurement: *Provided,* That
27 Republic Act No. 9184 or any subsequent general law on procurement shall apply
28 suppletorily: *Provided, further,* That the Department and its bureaus, in consultation
29 with the DBM and the GPPB, shall strengthen their systems and procedures for
30 acquisition of materiel under this Act.

31 *Sec. 12. Creation of the Office of the Undersecretary for Defense Technology*
32 *Research and Industry Development.* - There shall be created in the Department an

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

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

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

19 Pursuant to its constitutional duties, the Executive Department, particularly the
20 NEDA, the Commission on Audit, and the Congress shall discharge oversight functions,
21 to wit:

- 22 (a) The NEDA shall conduct annual review of the status of all defense-related
23 acquisitions via the authority exercised by the Secretary in Section 6 of this
24 Act, identify causes of delays, reasons for bottlenecks, cost overruns, both
25 actual and prospective, and continued viability, and report to Congress not
26 later than June 30 of each year;
27 (b) The Commission on Audit shall conduct an audit on each ongoing, and
28 completed acquisition and report to Congress not later than June 30 of each
29 year; and,
30 (c) There shall be a Congressional Oversight Committee composed of the
31 Chairmen of the Committee on National Defense and Security of both the
32 Senate and House of Representatives who shall serve as Co-Chairmen of the

1 Oversight Committee and four (4) members each from the Senate and the
2 House representing the majority and two (2) members each from the Senate
3 and the House representing the minority to be designated by the leaders of
4 the majority and minority in the respective chambers.

5 *Sec. 14. Promotion and Marketing Support.* - The Government shall promote
6 the export of locally-made materiel and the in-country enterprises to other countries,
7 and is encouraged to provide financial marketing support for the purpose of such
8 promotion.

9 *Sec. 15. Cooperation of Government Agencies.* - The DBM, DOF, Board, GPPB
10 and other government agencies are enjoined to support the implementation of this
11 Act.

12 *Sec. 16. Appropriation.* - An initial funding of One billion pesos
13 (P1,000,000,000.00) shall be appropriated to the Department for the purpose of
14 implementing this Act. Subsequent funding shall be included in the annual General
15 Appropriations Act.

16 *Sec. 17. Repealing Clause.* - Sections 1 and 2 of Presidential Decree No. 415,
17 as amended by Presidential Decree No. 1081 is hereby repealed.

18 The following laws, orders and regulations are hereby modified or
19 supplemented, as the case may be, in accordance with this Act:

20 (1) An exception is hereby made to Government Procurement Policy Board
21 Resolution No. 06-2003 in relation to its amendment to Section 1 of Presidential
22 Decree No. 415;

23 (2) An exception is hereby made to Republic Act No. 10667 otherwise known as
24 the Philippine Competition Law in relation to its repeal of Section 4 of
25 Commonwealth Act No. 138;

26 (3) An exception is hereby made to Republic Act No. 9184 otherwise known as the
27 Government Procurement Reform Act insofar as it covers procurement of
28 materiel;

29 (4) An exception is hereby made to Republic Act No. 1884 insofar as the exercise
30 of the responsibility of the Office of the Undersecretary of Defense for Munitions
31 in research and development; and

1 (5) Section 5 of Republic Act No. 10349 insofar as it amends Section 9 of Republic
2 Act No. 7898 is hereby supplemented.

3 Apart from the foregoing, all provisions of existing laws, orders, and regulations
4 contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

5 Sec. 18. *Separability Clause.* - If any provision of this Act shall be held
6 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
7 full force and effect.

8 Sec. 19. *Role of the GPPB.* - The GPPB shall continue to fulfill its functions as
9 provided in Republic Act No. 9184 subject however to the provisions of this Act:
10 *Provided,* That in no case shall the GPPB interpret Republic Act No. 9184 or any
11 subsequent general law on procurement as overriding any of the provisions of this
12 Act. The Secretary shall continue to serve as a member of the GPPB.

13 Sec. 20. *Rule of Interpretation.* - Rights and obligations existing on the date of
14 effectivity of this Act and arising out of contracts shall be governed by the original
15 terms and conditions of said contracts or the law in force at the time such rights were
16 vested.

17 Sec. 21. *Implementing Rules and Regulations; Supplementary Regulations.* -
18 Subject to the provisions of this Act, the President thru the Secretary is authorized to
19 implement this Act, formulate and amend, whenever necessary, the implementing
20 rules and regulations and standard forms necessary for the implementation of this Act,
21 and issue supplemental regulations to hasten and facilitate the implementation of this
22 Act.

23 Sec. 22. *Effectivity.* - This Act shall take effect fifteen (15) days following its
24 complete publication in the *Official Gazette* or in two (2) national newspapers of
25 general circulation.

Approved,