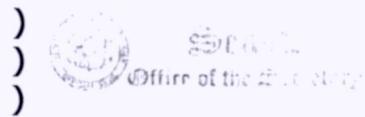


**EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session



SENATE

19 JUL 10 A9:05

Senate Bill No. 304

RECEIVED BY:

Introduced by Senator Juan Miguel F. Zubiri

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

The Self Reliant Defense Posture (SRDP) Program was first implemented in 1974, as the Government's response to the Muslim secessionist movement in Mindanao and support for the immediate and growing military hardware requirements of the Armed Forces of the Philippines. Through Presidential Decree No. 415, the Government, then under former President Ferdinand Marcos, aimed to develop a local defense industry that can address and provide the materiel needs of our own military forces.

This bill aims to revitalize the SRDP Program, incentivize in-country enterprises, rationalize defense acquisition and create the Office of the Undersecretary for Defense Technology Research and Industry Development under the Department of National Defense.

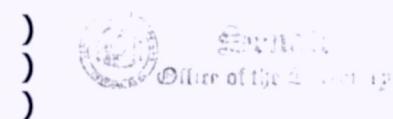
Through the PDIDA, we hope to limit Philippine dependence on allies for the provision of defense requirements and develop the defense capability of the country, as well as reduce foreign exchange outflow, generate local employment opportunities and enhance technology transfer to the Philippines.

In view of the foregoing, the passage of this bill is earnestly sought.

A large, stylized handwritten signature of Juan Miguel F. Zubiri, consisting of several loops and a final flourish.

JUAN MIGUEL F. ZUBIRI

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

1 **SECTION 1.** *Short Title.* – This Act shall be known as the “Philippine
2 Defense Industry Development Act of 2019” or the “PDIDA” for brevity.
3

4 **SEC. 2.** *Declaration of State Policy.* – The State declares the development
5 of the National Defense Industry as an indispensable element of national
6 defense. Towards this end, the State shall recognize the following:
7

8 1. The vital role of the Industry in nation-building and that with respect to
9 government acquisition and incentives, the Industry is a class on its own that
10 must be prioritized;
11

12 2. The necessity of an independent and self-reliant sovereign state, capable
13 of providing its own resources for defense, security and national survival as a
14 matter of national strategy, specifically during war and other national
15 emergencies;

16
17 3. The consistency of the Filipino First Policy in developing national defense;
18

1 4. The indispensability of the active participation of and collaborative
2 partnerships with the private sector in the strengthening of national defense of
3 the country; and

4

5 5. The capability of the Philippines in ensuring the adequate supply of
6 affordable, globally-competitive, quality and accessible defense implements,
7 equipment, machinery, systems and solutions, and in giving priority to
8 stimulating and maintaining defense technology research, science and
9 technology education, training and services, and defense industry development.

10

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

17

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

22

23 **SEC. 3. Definition of Terms.** – For purposes of this Act, the terms below
24 shall be construed to mean, except when explicitly indicated or where the
25 context clearly indicates otherwise, as follows:

26

27 **a. Acquisition** shall refer to the bureaucratic management and procurement
28 process dealing with the investment of the country in technologies, programs
29 and product support necessary to support national defense and security and
30 support its armed forces. It shall include the acquisition of raw material, critical
31 components and materiel.

32

33 **b. AFP** shall refer to the Armed Forces of the Philippines.

34

35 **c. Board** shall refer to the Board of Investments.

36

1 **d. Countertrade** shall refer to international trade by exchange of goods rather
2 than by currency purchase.

3

4 **e. Critical Components** shall refer to components, subsystems, systems, and
5 related special tooling and test equipment essential to the production, repair,
6 maintenance, or operation of weapon systems or other items of equipment
7 identified as being essential to the execution of any National Defense and
8 National Security strategy.

9

10 **f. Department** shall refer to the Department of National Defense.

11

12 **g. DOF** shall refer to the Department of Finance.

13

14 **h. GPPB** shall refer to the Government Procurement Policy Board.

15

16 **i. Government to Government Transactions** shall refer to contractual
17 arrangements between the Philippines and other sovereign nations for the
18 acquisition of materiel and other defense-related acquisitions.

19

20 **j. Highest Rated Bid** shall refer to the offer with the highest calculated rating
21 based on the criteria/parameters not limited to capability, quality, timeliness of
22 delivery, life cycle cost, after-sales support, transfer of technology, warranty,
23 perquisites and price.

24

25 **k. In-country Enterprises** shall refer to (1) Filipino-owned enterprises
26 engaged in the manufacturing, servicing and operation of materiel in the
27 Philippines, or (2) foreign-owned enterprises engaged in the manufacturing,
28 servicing and operation of materiel provided however that such foreign-owned
29 enterprises shall locate a substantial portion of their production within the
30 Philippines.

31

32 **l. Industry** shall refer to the National Defense Industry.

33

34 **m. Integrated Logistics Support** refers to an integrated and iterative process
35 for developing materiel and a support strategy that optimizes functional support,
36 leverages existing resources, and guides the system engineering process to

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

3

4 **n. Manufacturing** refers to the process of converting raw materials,
5 components, or parts into finished materiel, whether using manpower, machines
6 or a combination thereof.

7

8 **o. Materiel** shall refer to military technology, materials and equipment,
9 including but not limited to arms and ammunition and combat clothing.

10

11 **p. Minimum Local Content** refers to the minimum percentage of intermediate
12 goods used in the manufacturing processes to be sourced from in-country
13 enterprises.

14

15 **q. National Defense** refers to the policies, measures and initiatives intended to
16 provide the necessary protection of the State against external and internal
17 threats.

18

19 **r. National Security** refers to the policies, measures and initiatives intended to
20 protect the interests of the country and to protect the State from all forms of
21 crises.

22

23 **s. NEDA** shall refer to the National Economic and Development Authority.

24

25 **t. Operating** refers to the process of functioning or operating of materiel or
26 facilities, utilities and appurtenances thereto which are necessary for the
27 manufacture, servicing or operating of materiel or components.

28

29 **u. Plan** shall refer to the Investment Priorities Plan as provided in the Omnibus
30 Investment Code.

31

32 **v. President** shall refer to the President of the Republic of the Philippines.

33

34 **w. Private Sector** refers to the part of the country's economic system that is
35 not under direct government control.

36

1 **x. Program** shall refer to the SRDP.

2

3 **y. Raw Materials** refer to the basic material from which materiel is
4 manufactured.

5

6 **z. Secretary** shall refer to the Secretary of National Defense.

7

8 **aa. Servicing** refers to the process of maintaining, repairing or overhauling
9 materiel.

10

11 **bb. SLCC** shall refer to the Single Largest Completed Contract requirement as
12 provided in the implementing rules and regulations of Republic Act No. 9184.

13

14 **cc. SRDP** shall refer to the Self Reliant Defense Posture as provided under
15 pertinent laws.

16

17 **SEC. 4. The National Defense Industry.** – For the interest of the nation,
18 the National Defense Industry shall be developed in accordance with the
19 following:

20

21 a. The dependence of the country on foreign support for defense
22 requirements shall be limited in accordance with this Act and/or the
23 policies approved by the President;

24

25 b. To develop the defense capability of the country, the State shall rely
26 primarily on and give preference to developing In-Country Enterprises,
27 allocating substantial resources and manpower to defense research,
28 utilizing to the fullest the country's natural resources as the source of the
29 country's defense needs, and providing relevant technical and financial
30 assistance to the private sector;

31

32 c. To develop the defense capability of the country, the State shall rely on
33 materiel produced, manufactured or otherwise created locally;

34

35 d. To develop the defense capability, the State shall only use materiel from
36 foreign sources when such materiel cannot be locally produced,

1 manufactured or otherwise created: *Provided*, That importation from such
2 foreign sources shall be for the ultimate objective of acquiring technology
3 for the production of such unavailable materiel;

4

5 e. In order to reduce foreign exchange outflow, generate local employment
6 opportunities and enhance technology transfer to the Philippines, the
7 Secretary shall, as far as practicable, incorporate in each agreement
8 involving the Government and the manufacturing, servicing or operation
9 of materiel special foreign exchange reduction schemes and countertrade,
10 in-country manufacture co-production, or other innovative arrangements
11 or combinations thereof; and

12

13 f. The Program shall be developed in accordance with the provisions of this
14 Act.

15

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

29

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

33

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

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

7

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

18

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

27

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

36

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

6
7 2. In the event a public bidding utilizes the standard of highest rated bid,
8 bids of in-country enterprises shall be considered as having won the
9 criteria of price as long as its bid shall not be more than fifteen percent
10 (15%) in excess of the bid of such foreign enterprise.

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

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

26
27 (F) In Section 5(C), 5(D) and 5(E), the Department in consultation with
28 representatives of in-country enterprises will issue reasonable regulations on the
29 minimum local content for all defense-related acquisitions. The Department may
30 consult with other government agencies to determine such minimum local
31 content.

32
33 Further, in order to support the economic and employment generation
34 thrusts of the country, all defense acquisitions requiring the engagement and/or
35 hiring of civilian labor shall mandatorily require that all labor needs be sourced
36 from local sources and shall, as far as practicable, be Filipino.

1
2 (G) In Section 5(C), 5(D) and 5(E), Integrated Logistics Support must be
3 incorporated in all contracts concerning defense-related acquisitions.

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

21
22 **SEC. 8. Performance Undertakings.** – The DOF is authorized to recognize
23 the obligations of the Department and its bureaus with regard to the acquisition
24 of materiel as obligations of the Republic of the Philippines and to undertake to
25 pay the same in the event of non-payment by the Department and its bureaus.

26
27 **SEC. 9. Countertrade.** – Countertrade for defense-related acquisition shall
28 be significant, meaningful and must be of benefit to the Industry.

29
30 **SEC. 10. Exemption from SLCC.** – In-country enterprises participating in
31 the acquisition of materiel by the Department and its bureaus shall be exempt
32 from the SLCC requirement upon effectivity of this Act.

33
34 **SEC. 11. Acquisition System.** – Subject to the provisions of this Act, the
35 system and procedures for acquisition of materiel, with or without public bidding,
36 shall be in accordance with a special law on defense-related procurement:

1 *Provided*, That Republic Act No. 9184 or any subsequent general law on
2 procurement shall apply suppletorily: *Provided, further*, That the Department and
3 its bureaus, in consultation with the DBM and the GPPB, shall strengthen their
4 systems and procedures for acquisition of materiel under this Act.

5

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

22

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

26

27 1. An annual report on the acquisitions made under this Act; and,
28 2. Copies of the multi-year contracts and other agreements entered into by
29 the Department and its bureaus.

30

31 Pursuant to its constitutional duties, the Executive Department,
32 particularly the NEDA, the Commission on Audit, and the Congress shall
33 discharge oversight functions, to wit:

34

35 a. The NEDA shall conduct annual review of the status of all defense-related
36 acquisitions via the authority exercised by the Secretary in Section 6 of this Act,

1 identify causes of delays, reasons for bottlenecks, cost overruns, both actual and
2 prospective, and continued viability, and report to Congress not later than June
3 30 of each year;

4

5 b. The Commission on Audit shall conduct an audit on each ongoing, and
6 completed acquisition and report to Congress not later than June 30 of each
7 year; and,

8

9 c. There shall be a Congressional Oversight Committee composed of the
10 Chairmen of the Committee on National Defense and Security of both the Senate
11 and House of Representatives who shall serve as Co-Chairmen of the Oversight
12 Committee and four (4) members each from the Senate and the House
13 representing the majority and two (2) members each from the Senate and the
14 House representing the minority to be designated by the leaders of the majority
15 and minority in the respective chambers.

16

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

21

22 **SEC. 15.** *Cooperation of Government Agencies.* – The DBM, DOF, Board,
23 GPPB and other government agencies are enjoined to support the
24 implementation of this Act.

25

26 **SEC. 16.** *Appropriation.* – An initial funding of One Billion Pesos
27 (P1,000,000,000.00) shall be appropriated to the Department for the purpose of
28 implementing this Act. Subsequent funding shall be included in the annual
29 General Appropriations Act.

30

31 **SEC. 17.** *Repealing Clause.* – Sections 1 and 2 of Presidential Decree No.
32 415, as amended by Presidential Decree No. 1081 is hereby repealed.

33

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

36

- 1 1. An exception is hereby made to Government Procurement Policy Board
- 2 Resolution No. 06-2003 in relation to its amendment to Section 1 of
- 3 Presidential Decree No. 415;
- 4 2. An exception is hereby made to Republic Act No. 10667 otherwise known
- 5 as the Philippine Competition Law in relation to its repeal of Section 4 of
- 6 Commonwealth Act No. 138;
- 7 3. An exception is hereby made to Republic Act No. 9184 otherwise known
- 8 as the Government Procurement Reform Act insofar as it covers
- 9 procurement of materiel;
- 10 4. An exception is hereby made to Republic Act No. 1884 insofar as the
- 11 exercise of the responsibility of the Office of the Undersecretary of
- 12 Defense for Munitions in research and development; and
- 13 5. Section 5 of Republic Act No. 10349 insofar as it amends Section 9 of
- 14 Republic Act No. 7898 is hereby supplemented.

15
16 Apart from the foregoing, all provisions of existing laws, orders, and

17 regulations contrary to or inconsistent with this Act are hereby repealed or

18 modified accordingly.

19
20 **SEC. 18. Separability Clause.** – If any provision of this Act shall be held

21 unconstitutional or invalid, the other provisions not otherwise affected shall

22 remain in full force and effect.

23
24 **SEC. 19. Role of the GPPB.** – The GPPB shall continue to fulfill its

25 functions as provided in Republic Act No. 9184 subject however to the provisions

26 of this Act: *Provided*, That in no case shall the GPPB interpret Republic Act No.

27 9184 or any subsequent general law on procurement as overriding any of the

28 provisions of this Act. The Secretary shall continue to serve as a member of the

29 GPPB.

30
31 **SEC. 20. Rule of Interpretation.** – Rights and obligations existing on the

32 date of effectivity of this Act and arising out of contracts shall be governed by

33 the original terms and conditions of said contracts or the law in force at the time

34 such rights were vested.

35

1 **SEC. 21.** *Implementing Rules and Regulations; Supplementary*
2 *Regulations.* – Subject to the provisions of this Act, the President thru the
3 Secretary is authorized to implement this Act, formulate and amend, whenever
4 necessary, the implementing rules and regulations and standard forms necessary
5 for the implementation of this Act, and issue supplemental regulations to hasten
6 and facilitate the implementation of this Act.

7

8 **SEC. 22.** *Effectivity Clause.* – This Act shall take effect after fifteen (15)
9 days from its publication in the Official Gazette or at least two (2) newspapers of
10 national circulation.

Approved,