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SENATE

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S. No. 726

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

The Philippines has one of the most diverse ecosystems in the world which the Department of Environment and Natural Resources has classified into the following: forest, grassland and marginal land, cropland, freshwater, urban, coastal and marine. In these varied forms of habitat, 186 species of reptiles, 556 species of birds, 2,401 species of mammals and 16,704 species of insects get their sustenance and protection.

Our forests contain around 15,000 species of plants, while our seas provide life to an estimated 1,400 species of fish in a seabed approximately 44,907 sq. km. Our inland waters contain around 225 species of fish of which 60 of these are endemic or localized in such bodies of water.

For the protection of these ecosystems, Republic Act No. 7586 was passed in June 1992. This law sought to set aside identified areas of the public domain which will be given intensified biodiversity protection. For now, around 18 priority Integrated Protected Areas (IPAS) sites have been identified covering a total area of 1,284,195 has. of protected habitat or totalling a measly 4.3 per cent of the Philippine total land area of 30 million hectares. If this figure is added to the areas already protected by existing executive issuances and other legislative enactments, (which by themselves alone cover only around 498,840 has.), there would merely be a total of around 1,783,035 has. of protected area, which comes to about 5.9 per cent of our total land area.

This bill seeks to increase the coverage of these protected areas and gives discretion to the proposed National Commission on Biodiversity and Biotechnology under the Department of Science and Technology to determine these areas. The bill proposes the sealing off of these areas so that the Commission may be able to conduct biodiversity prospecting activities. The objective is to identify the flora and fauna species that can be best utilized for further research in the areas of taxonomy, biotechnology, tropical medicine, etc. and to find ways for its commercialization or mass utilization.

This bill also provides for the conduct of biotechnology activities recognizing that this emerging field of science can be one area where the Philippines can gain competitive advantage. Aside from producing around 30 million metric tons (MT) of biomass per year, the country also has the critical mass needed for research and development in terms of having a big group of high level trained manpower (58 Ph.Ds and 150 maters degree holders in biotechnology services). There is likewise around 20 major public and private institutions engaged in biotechnology research and development (R & D).

Community residents affected by the sourcing of biomass are not neglected. Under this measure, they are given the chance to participate in the decision-making and implementation of bioprospecting ventures. Aside from which incentives are given for their participation.

For the above reasons, immediate approval of this bill is urged.


MANUEL B. VILLAR, JR.

13TH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



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S. No. 726

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**AN ACT DECLARING A NATIONAL FRAMEWORK FOR THE PROTECTION OF
BIODIVERSITY IN TERRESTRIAL, AQUATIC AND AGRICULTURAL RESOURCES
AND CREATING THE INSTITUTIONAL MECHANISM FOR ITS
IMPLEMENTATION**

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

TITLE I

DECLARATION OF POLICY AND FRAMEWORK

SECTION 1. Title. - This Act shall be known as the "Biodiversity Protection and Bioresource Development Act of 2004. "

SEC. 2. Declaration of Policy. - It shall be the policy of the State to conserve the biodiversity of the existing terrestrial, aquatic and agricultural resources of the country, document the remaining flora and fauna therein, identify their medicinal and commercial uses and regulate their collection and Utilization for the benefit of present and future generations of Filipino citizens.

It is hereby recognized that these resources provide unquantifiable medical, economic, social and cultural benefits to society so that they are declared reserved only for utilization under the guidelines and purposes of this Act.

SEC. 3. Framework. - There is hereby instituted under this Act a framework for the protection and utilization of the genetic materials found in the terrestrial, aquatic and agricultural resources of the country;

a) Whatever may be found in our existing terrestrial, aquatic and agricultural resources shall/be for the patrimony of present and future generations of Filipinos;

b) Access to the genetic material found in the tropical rainforest, marine and agricultural resources in identified areas of the country and the right to explore and enhance the capability of these resources shall belong to Filipino citizens:

c) Whatever benefits that may accrue due to research and other commercial activities based on the utilization of the genetic material found in these tropical rainforests and marine and agricultural resources shall be channeled for the development and enhancement of the communities where they were sourced; and

TITLE II

NATURAL RESOURCES PROTECTION

SEC. 4. Identification, Conservation and Rehabilitation of Existing and Critical Biodiversity. - Existing and critical systems of biodiversity, in the terrestrial, aquatic and agricultural resources, shall be identified, conserved and rehabilitated in accordance with the provisions of this Act.

SEC. 5. Promotion of Biodiversity Prospecting Activities. - The State, in accordance with the institutional mechanism created under this Act, shall encourage the conduct of biodiversity prospecting activities in the areas covered by the National Integrated Protected Areas System (NIPAS) and in areas that may be identified in accordance with the guidelines and institutional mechanisms established under this Act.

These biodiversity prospecting activities shall determine what species exist within the borders of these identified areas and establish what species are at risk such that measures can be immediately established for their protection and conservation.

SEC. 6. Community Participation. - Residents of communities where these biodiversity prospecting activities are conducted shall be encouraged and given incentives for participating in the protection of the ecosystem within their areas of jurisdiction.

SEC. 7. Community Participation Agreements. - Agreements may be forged between the communities where these areas of biodiversity can be found and any public or private agency for the conduct of biodiversity prospecting activities within their areas of jurisdiction. Any responsible local government unit, duly-accredited people's organization non-government organization or private corporate entity may take the initiative in organizing the communities concerned to enable them to participate in biodiversity agreements.

The consent of the communities concerned shall be secured before any biodiversity prospecting activities may be conducted to attain the purposes of this Act.

SEC. 8. Respect to the Indigenous Cultural Communities. - The customs, beliefs and practices of the indigenous cultural communities with respect to biodiversity shall be given primary consideration and respect in the conduct of biodiversity prospecting activities in accordance with the provisions of this Act.

The customary use of these biological resource shall be promoted and encouraged in accordance with the cultural practices which are compatible with conservation or sustainable use requirements.

TITLE III

PROMOTION OF SCIENTIFIC RESEARCH AND COMMERCIAL ACTIVITIES

SEC. 9. Incentives for Government and Private Sector Collaboration in Scientific Research on Biodiversity and Biotechnology. -- Firms, associations, corporations, cooperatives, and other groups, in the private sector, shall be given incentives for participating with the Government in scientific, researches in biodiversity and biotechnology, including but not limited to:

- a) Tax holidays for the first Ten (10) years of operation;
- b) Exemption from all kinds of customs and tariff duties on the importation of equipment and other materials necessary for research;
- c) Funding support for the initial phase of operations as determined by the guidelines that will be formulated in accordance with this Act. .

SEC. 10. Government-Private Sector Collaboration in Commercialization Activities. - The Government- and the' private sector may undertake joint efforts in the commercialization of products and processes that may be developed from the biodiversity and biotechnology researches conducted under the provisions this. Act.

TITLE IV

TECHNOLOGY TRANSFER

SEC. 11. Modes of Technology Transfer. - The technology transfer activities under this Act shall include but not be limited to the following:

- a) Establishment of wholly-owned subsidiaries;
- b) Joint-venture agreements;
- c) Turnkey agreements;
- d) Contract licenses; and

e) Other direct mechanisms such as the importation of capital goods; training of nationals, contracts' with experts and consulting firms, among others.

SEC. 12. Sharing of Commercial and Scientific Benefits. - The Government and any foreign firm involved in technology transfer activities shall share in a fair, equitable, and reasonable manner the benefits from scientific research and commercialization activities under this Act.

SEC. 13. Access to Raw Genetic Material and Research Results. - The Government shall have access, at no cost, to the, raw genetic material and research results that will be generated from scientific researches initiated under this Act.

TITLE V

INTELLECTUAL PROPERTY RIGHTS

SEC. 14. Preference for Residents of Local Communities in the Grant of Intellectual Property Rights. - Residents in communities wherein biodiversity activities are conducted shall be given preference in the grant of intellectual property rights in accordance with the provisions of this Act.

SEC. 15. Intellectual Property Rights Granted. - The provisions of existing laws on intellectual property rights to the contrary notwithstanding, the following are the intellectual property rights granted under this Act:

- a) Farmer's plant breeder rights;
- b) Patents for new breeds or varieties of flora and fauna; and
- c) Community intellectual rights.

SEC. 16. Rules and Regulations to Implement the Rights Granted Under this Act. - The Bureau of Patents, Trademarks and Technology Transfer is hereby given authority under this Act to formulate the rules and regulations for the enforcement of the rights granted under the preceding provision.

TITLE VI

FINANCIAL MECHANISMS

SEC. 17. Local Financing. - Firms, associations, corporations, cooperative, and other groups or associations among others, in' the private sector, participating in scientific researches and commercialization activities under this Act shall be given priority assistance in government investments as well as venture capital financing to support their activities under this Act.

TITLE VII

INSTITUTIONAL MECHANISM

SEC. 18. Creation of the National Commission on Biodiversity and Biotechnology (NCBB). - There is hereby created National Commission on Biodiversity and Biotechnology (NIBB), hereinafter to be known as the Commission, to be attached to the Department of Science and Technology (DOST) to implement the provisions of this Act and promulgate the necessary, rules and regulations to carry out the purposes of the Act.

SEC. 19. Powers and Functions of the National Commission on Biodiversity and Biotechnology. - The Commission to be created under this Act shall have the following powers and functions:

a) To conduct biodiversity surveys aimed at full identification and biogeography of all species found in *in situ* conditions in our tropical rainforest and marine resources;

b) To determine access to these resources by delineating identified tropical rainforests and marine resource areas all over the country that will be subjected to its supervision and regulation;

c) To conduct biochemical prospecting activities aimed at identifying species that have medicinal anti physical properties of potential future benefit to medicine, industry and basic research;

d) To enter into agreements with the private sector on prospecting activities up to the product development stage;

e) To establish gene banks, germ plasm collections, and similar repositories for all species of agricultural crops and flora and fauna found in. tropical forests and marine resources or enter into arrangements and agreements with existing international gene banks and germ plasm collections and similar repositories so that the existing indigenous stock be preserved and enhanced;

f) To enter into agreements with the affected local government units (LGUs) concerning the hiring, training and deployment of parataxonomists with preference for community residents;

g) To carry out fund-sourcing activities in and outside the Philippines and tap available-funding mechanisms to support the objectives of this Act; and

h) To perform such other activities as may be necessary in pursuance of the objectives of this Act.

SEC. 20. Executive Director. - The Commission shall be headed by an Executive Director who shall be appointed by the President of the Republic of the Philippines from a list of nominees submitted by the Secretary of the Department of Science and Technology (DOST). He shall be responsible for directing the day-to-day, activities of the Commission and in the implementation of the provisions of the Act.

The Executive Director shall report directly to the Secretary of the Department of Science and Technology (DOST) for his decisions.

SEC. 21. Qualifications of the Executive Director. - The Executive Director must be at least 40 years of age, a holder of a post-graduate degree in biodiversity or biotechnology or in a related field of academic endeavor, must have undertaken at least ten (10) years of research activities in his field and must have a keen sense of the relationship of biodiversity and biotechnology and development as shown by his work exposure in these fields.

The Executive Director shall be appointed for term of seven (7) years without reappointment.

SEC. 22. Advisory Board. - There shall be an Advocacy Board which shall make recommendations to the executive Director to assist him in the formulation of the policies to determine the over-all direction of the Commission and other guidelines for the implementation of this Act.

The Advisory Board shall consist of the following:

- a) The Secretary of the Department of Science and Technology (DOST) - Chairperson;
- b) The Secretary of the Department of Environment and Natural Resources - Vice-Chairperson;
- c) The Secretary of the Department of Health - Member;
- d) The Secretary of the Department of Finance - Member;
- e) The Director of the Bureau of Patents, Trademarks and Technology Transfer - Member;
- f) The Director of the Institute of Biological Sciences, University of the Philippines Los Baños - Member;
- g) The Director of the Marine Sciences Institute of the University of the Philippines in Diliman - Member;
- h) The Chairperson of the Philippines Council for Sustainable Development - Member; and
- i) The Director of the National Museum - Member.

SEC. 23. Network of Research Centers on Biodiversity and Biotechnology. - The Commission shall initiate the establishment of private-sector led research centers in biodiversity and biotechnology all over the country by engaging in consortium-type agreements with these research centers and the existing research institutes on biodiversity and biotechnology in various state colleges and universities all over the country.

The research thrusts of the network of research centers shall be developed and implemented in accordance with the priorities established by the Commission. .

SEC. 24. Ethical Standards in Biodiversity and Biotechnology Research and Commercialization Activities. - The Commission, *in coordination with its Advisory Board*, shall formulate the normative ethical standards to guide biodiversity and biotechnology research and commercialization activities in the country, taking into account existing scientific and business norms and practices and international agreements and conventions on the matter.

SEC. 25. Funding. - The Commission shall have an initial budget of Two Hundred Million Pesos (P200,000,000.00) which shall be sourced from the Global Environmental Facility (GEF) fund for its initial operation. Afterwards, such amounts as may be necessary for the operating expenses of the Commission shall be included in the General Appropriations Act.

SEC. 26. Penal Provisions. - Any person or entity found violating the provision of this Act shall be subject to a fine of One Hundred Thousand Pesos (P100,000.00) or imprisonment of at least three (3) years or both at the discretion of the court.

SEC. 27. Implementing Rules and Regulations. - The Commission, in coordination with the Advisory Board, shall promulgate the rules and regulations for the implementation of this Act ninety days from its composition.

SEC. 28. Separability Clause. - If any section or title of this Act is declared invalid, the remainder of the Act shall not be affected thereby.

SEC. 29. Repealing Clause. - Any provision, of law, presidential decree, executive order and other issuance found inconsistent with this Act, is hereby repealed or modified accordingly.

SEC. 30. Effectivity. - This Act shall take effect of fifteen (15) days from its publication in two (2) newspapers of general circulation.

Approved,